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United Nations

Report of the Committee on the Rights of the Child

General Assembly

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Supplement No. 41

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Report of the Committee on the Rights of the Child

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Chapter I
Organizational and other matters

A. States parties to the Convention

1. As at 29 January 2010, the closing date of the fifty-third session of the Committee on the Rights of the Child, there were 193 States parties to the Convention on the Rights of the Child. An updated list of States that have signed, ratified or acceded to the Convention can be consulted at www.ohchr.org or http://treaties.un.org.

2. As at the same date, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict had been ratified or acceded to by 131 States parties and signed by 125 States. Also, as at the same date, the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography had been ratified or acceded to by 136 States parties and signed by 117 States. An updated list of States that have signed, ratified or acceded to the two Optional Protocols can be consulted at www.ohchr.org or http://treaties.un.org.

B. Sessions of the Committee

3. The Committee held six sessions since the adoption of its previous biennial report (A/63/41): forty-eighth session (19 May-6 June 2008); forty-ninth session (15 September-3 October 2008); fiftieth session (12-30 January 2009); fifty-first session (25 May-12 June 2009); fifty-second session (14 September-2 October 2009); fifty-third session (11-29 January 2010). Subsequent to each session, the Committee issues a report of the session containing the full text of all concluding observations adopted as well as any decisions and recommendations (including those arising from a day of general discussion) and noting the general comments adopted. The reports on the aforementioned sessions are contained in documents CRC/C/48/3, CRC/C/49/3, CRC/C/50/3, CRC/C/51/3, CRC/C/52/3 and CRC/C/53/3, respectively.

C. Membership and officers of the Committee

4. From the forty-eighth to the fiftieth session, the Committee maintained the same members and officers noted in its previous report to the General Assembly (A/63/41, annex I).

5. In accordance with article 43 of the Convention, the Twelfth Meeting of States Parties to the Convention was convened on 16 December 2008 at United Nations Headquarters. The following nine members of the Committee were elected or re-elected for a term of four years beginning on 28 February 2009: Ms. Hadeel al-Asmar, Mr. Peter Guran, Mr. Sanphasit Koompraphant, Ms. Yanghee Lee, Ms. Marta Mauras Perez, Mr. Awich Pollar, Ms. Kamla Devi Varmah, Ms. Susana Villarán de la Puente and Mr. Jean Zermatten. The list of the members of the Committee, with an indication of their term of office, appears in annex I to the present report. Annex I also indicates the officers elected at the fifty-first session of the Committee (see also the report of the fifty-first session, CRC/C/51/3).

D. Adoption of the report

6. At its 1501st meeting, held on 29 January 2010, the Committee considered the draft of its tenth biennial report to the General Assembly, covering its activities from the forty-eighth to the fifty-third session. The report was adopted unanimously by the Committee.

Chapter II

Reports by States parties under article 44 of the Convention, article 8 of the Optional Protocol on the involvement of children in armed conflict and article 12 of the Optional Protocol on the sale of children, child prostitution and child pornography

A. Submission of reports

7. In order to maintain an up-to-date register of the status of submission of reports and adoption of related concluding observations, prior to each session the Committee issues a comprehensive document outlining the number of reports submitted to date. This document, entitled "Submission of reports by States parties", also contains relevant information on the exceptional measures taken to address late or non-reporting. The latest version of this report was issued prior to the fifty-third session of the Committee on 11 November 2009 in document CRC/C/53/2.

8. As of 11 November 2009, the Committee had received 422 reports pursuant to article 44 of the Convention, including 194 initial, 131 second periodic, 64 third periodic and 45 fourth periodic reports, as well as 69 initial State party reports under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict and 57 initial reports under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. For the full list of these reports, see CRC/C/53/2, annexes I, II and III, respectively.

B. Consideration of reports

9. During its forty-eighth to fifty-third sessions, the Committee considered 33 initial and periodic reports under the Convention, 17 initial reports under the Optional Protocol on the involvement of children in armed conflict and 16 initial reports under the Optional Protocol on the sale of children, child prostitution and child pornography.

10. The following table indicates, by session, the reports of States parties considered by the Committee during the period covered by the present report. It further provides the document symbol of the session report in which the concluding observations of the Committee have been published, the symbols of the reports of States parties considered by the Committee and the document symbol of the concluding observations published as a separate document.

	State party report	*Concluding observations*
	Forty-eighth session, 19 May-6 June 2008 (session report CRC/C/48/3)	
Bulgaria	CRC/C/BGR/2	CRC/C/BGR/CO/2
Eritrea	CRC/C/ERI/3	CRC/C/ERI/CO/3
Georgia	CRC/C/GEO/3	CRC/C/GEO/CO/3
Philippines	CRC/C/OPAC/PHL/1	CRC/C/OPAC/PHL/CO/1
Republic of Korea	CRC/C/OPAC/KOR/1	CRC/C/OPAC/KOR/CO/1
Republic of Korea	CRC/C/OPSC/KOR/1	CRC/C/OPSC/KOR/CO/1
Serbia	CRC/C/SRB/1	CRC/C/SRB/CO/1
Sierra Leone	CRC/C/SLE/2	CRC/C/SLE/CO/2
United States of America	CRC/C/OPAC/USA/1	CRC/C/OPAC/USA/CO/1
United States of America	CRC/C/OPSC/USA/1	CRC/C/OPSC/USA/CO/1
	Forty-ninth session, 15 September-3 October 2008 (session report CRC/C/49/3)	
Austria	CRC/C/OPSC/AUT/1	CRC/C/OPSC/AUT/CO/1
Bhutan	CRC/C/BTN/2	CRC/C/BTN/CO/2
Djibouti	CRC/C/DJI/2	CRC/C/DJI/CO/2
Lithuania	CRC/C/OPSC/LTU/1	CRC/C/OPSC/LTU/CO/1
Uganda	CRC/C/OPSC/UGA/1	CRC/C/OPSC/UGA/CO/1
Uganda	CRC/C/OPAC/UGA/1	CRC/C/OPAC/UGA/CO/1
United Kingdom of Great Britain and Northern Ireland	CRC/C/GBR/4	CRC/C/GBR/CO/4
United Kingdom of Great Britain and Northern Ireland	CRC/C/OPAC/GBR/1	CRC/C/OPAC/GBR/CO/1
United Republic of Tanzania	CRC/C/OPSC/TZA/1	CRC/C/OPSC/TZA/CO/1
United Republic of Tanzania	CRC/C/OPAC/TZA/1	CRC/C/OPAC/TZA/CO/1
	Fiftieth session, 12-30 January 2009 (session report CRC/C/50/3)	
Chad	CRC/C/TCD/2	CRC/C/TCD/CO/2
Democratic People's Republic of Korea	CRC/C/PRK/4	CRC/C/PRK/CO/4
Democratic Republic of the Congo	CRC/C/COD/2	CRC/C/COD/CO/2
Malawi	CRC/C/MWI/2	CRC/C/MWI/CO/2

	State party report	*Concluding observations*
Maldives	CRC/C/OPAC/MDV/1	CRC/C/OPAC/MDV/CO/1
Maldives	CRC/C/OPSC/MDV/1	CRC/C/OPSC/MDV/CO/1
Netherlands	CRC/C/NLD/3	CRC/C/NLD/CO/3
Netherlands	CRC/C/OPSC/NLD/1	CRC/C/OPSC/NLD/CO/1
Republic of Moldova	CRC/C/MDA/3	CRC/C/MDA/CO/3
Republic of Moldova	CRC/C/OPAC/MDA/1	CRC/C/OPAC/MDA/CO/1
Tunisia	CRC/C/OPAC/TUN/1	CRC/C/OPAC/TUN/CO/1
Fifty-first session, 25 May-12 June 2009 (session report CRC/C/51/3)		
Bangladesh	CRC/C/BGD/4	CRC/C/BGD/CO/4
France	CRC/C/FRA/4	CRC/C/FRA/CO/4 and Corr.1
Mauritania	CRC/MRT/2	CRC/MRT/CO/2
Niger	CRC/C/NER/2	CRC/C/NER/CO/2
Oman	CRC/C/OPAC/OMN/1	CRC/C/OPAC/OMN/CO/1
Oman	CRC/C/OPSC/OMN/1	CRC/C/OPSC/OMN/CO/1
Romania	CRC/C/ROM/4	CRC/C/ROM/CO/4
Sweden	CRC/SWE/4	CRC/SWE/CO/4
Slovenia	CRC/C/OPAC/SVN/1	CRC/C/OPAC/SVN/CO/1
Slovenia	CRC/C/OPSC/SVN/1	CRC/C/OPSC/SVN/CO/1
Fifty-second session, 14 September-2 October 2009 (session report CRC/C/52/3)		
Bolivia (Plurinational State of)	CRC/C/BOL/4	CRC/C/BOL/CO/4
Mozambique	CRC/C/MOZ/2	CRC/C/MOZ/CO/2
Pakistan	CRC/C/PAK/3-4	CRC/C/PAK/CO/3-4
Philippines	CRC/C/PHL/3-4	CRC/C/PHL/CO/3-4
Poland	CRC/C/OPSC/POL/1	CRC/C/OPSC/POL/CO/1
Poland	CRC/C/OPAC/POL/1	CRC/C/OPAC/POL/CO/1
Qatar	CRC/C/QAT/2	CRC/C/QAT/CO/2
Turkey	CRC/C/OPAC/TUR/1	CRC/C/OPAC/TUR/CO/1
Yemen	CRC/C/OPSC/YEM/1	CRC/C/OPSC/YEM/CO/1

	State party report	*Concluding observations*
	Fifty-third session, 11-29 January 2010 (session report CRC/C/53/3)	
Burkina Faso	CRC/C/BFA/3-4	CRC/C/BFA/CO/3-4
Cameroon	CRC/C/CMR/2	CRC/C/CMR/CO/2
Ecuador	CRC/C/ECU/4	CRC/C/ECU/CO/4
Ecuador	CRC/C/OPAC/ECU/1	CRC/C/OPAC/ECU/CO/1
Ecuador	CRC/C/OPSC/ECU/1	CRC/C/OPSC/ECU/CO/1
El Salvador	CRC/C/SLV/3-4	CRC/C/SLV/CO/3-4
El Salvador	CRC/C/OPSC/SLV/1	CRC/C/OPSC/SLV/CO/1
Estonia	CRC/C/OPSC/EST/1	CRC/C/OPSC/EST/CO/1
Israel	CRC/C/OPAC/ISR/1	CRC/C/OPAC/ISR/CO/1
Liechtenstein	CRC/C/OPAC/LIE/1	CRC/C/OPAC/LIE/CO/1
Mongolia	CRC/C/MNG/3-4	CRC/C/MNG/CO/3-4
Mongolia	CRC/C/OPAC/MNG/1	CRC/C/OPAC/MNG/CO/1
Mongolia	CRC/C/OPSC/MNG/1	CRC/C/OPSC/MNG/CO/1
Norway	CRC/C/NOR/4	CRC/C/NOR/CO/4
Paraguay	CRC/C/PRY/3	CRC/C/PRY/CO/3
Tajikistan	CRC/C/TJK/2	CRC/C/TJK/CO/2

C. Progress achieved: trends and challenges of the implementation process — twentieth anniversary of the adoption of the Convention on the Rights of the Child

11. In line with its practice regarding its biennial reports, in order to assess achievements and challenges, as well as current trends in child rights, the Committee highlights a particular issue related to the implementation of child rights encountered through its monitoring activities. In the present report, the Committee decided to include a section on the celebration of the twentieth anniversary of the adoption of the Convention, which was held on 8 and 9 October 2009 in Geneva (a full report of the event is contained in annex II).

12. Twenty years ago, on 20 November 1989, the General Assembly unanimously adopted a groundbreaking human rights treaty that was the first international instrument dedicated exclusively to the protection and promotion of the rights of the child. In addition to outlining basic rights inspired by human rights guarantees enshrined in the Universal Declaration of Human Rights and other international human rights instruments, the Convention on the Rights of the Child boldly introduced a novel and radical way of perceiving children. By identifying children

as individual rights-holders and not simply as the property of their parents or guardians in need of charity, the Convention dramatically and permanently changed the nature of how the rights of the child would be considered and addressed.

13. In recognition of the consistently innovative and transformative role played by the Convention in the identification, protection and promotion of the rights of the child over the past 20 years, the Convention's monitoring body, the Committee on the Rights of the Child, decided at its fifty-first session that a celebratory event to mark the Convention's anniversary in appropriate style was called for. The celebration was held in Geneva on 8 and 9 October 2009, at the International Conference Centre Geneva.

14. Organized by the Office of the High Commissioner for Human Rights (OHCHR), in cooperation with other partners, Permanent Missions, United Nations agencies and non-governmental organizations (NGOs), the event provided an opportunity for genuine celebration, considered reflection, provocative and engaging discussion and the formulation of a set of 36 actionable recommendations related to the themes of dignity, development and dialogue. The three themes were carefully chosen as overarching principles that would provide a structured road map for dealing with the primary questions of the rights-based approach to effective implementation of the rights of the child. They were also selected to highlight and examine the interconnected nature of these issues.

15. Participants included representatives of States parties, United Nations bodies and intergovernmental organizations, national human rights institutions, international and national NGOs, children's and youth groups, academic institutions, child-rights experts, advocates, professionals and others interested in the Convention and its implementation. It is estimated that more than 700 persons, including children and young people, were in attendance, providing a unique opportunity to combine the vast expertise and experiences of these individuals to critically examine the current situation of the rights of the child and develop practical and effective solutions.

16. The event had three main objectives: (a) to celebrate the twentieth anniversary of the Convention; (b) to highlight three significant challenges to full implementation of the Convention, namely, ensuring the dignity of the child, providing the child with full possibilities for development and facilitating dialogue between adults and children in accordance with the participatory approach of the Convention; and (c) to evaluate the status and implementation of the Convention while identifying priority recommendations for the future.

17. The event was organized around lively and engaging celebratory activities which included presentations delivered by high-level speakers and children in the opening and closing plenary sessions, the screening of several short independent human rights films and videotaped messages from UNICEF Goodwill Ambassadors. The event also featured a rousing musical performance by Swiss rapper Osir and singer Loubna, of a song entitled "L'Enfant de l'Oubli".

18. Between the plenary sessions, intense and participatory discussions were held in thematic workshops on six sub-themes, namely: Children: rights-holders versus commodity (working group 1); Discrimination against children (working group 2); States parties' obligations: realizing economic, social and cultural rights — Are child rights a luxury during an economic crisis? (working group 3); Evolving

capacities as an enabling principle in practice (working group 4); A new democratic dynamic: child participation in the public sphere (working group 5); and Children's voices in the family: overcoming resistance (working group 6).

19. The working groups aimed to identify achievements in implementation and provide examples of best practices; identify challenges and constraints; and formulate priority recommendations to enhance implementation of the Convention. In advance of the event, six background papers (one for each sub-theme) had been prepared and posted on the OHCHR website and panel experts on the rights of the child delivered presentations in each working group to stimulate discussion. The working groups each formulated six thematic, action-oriented recommendations that were then presented to the closing plenary session. The recommendations were discussed and adopted by the Committee on the Rights of the Child at its fifty-third session in January 2010.

20. All of those activities were supplemented by additional side events on topics related to the rights of the child, including the possible elaboration of an optional protocol to the Convention, a number of art and photographic exhibitions and the launching of three books.

21. Throughout the two days, what made the event particularly special and invested the activities with an infectious and youthful enthusiasm was the active participation of a group of children and youth aged 15 to 23 who had come from a wide variety of countries. As part of the commitment of the Committee to involve young people in the event and to give opportunities for their views to be heard, efforts were undertaken to facilitate their participation, including through specific child-organized activities, such as workshops, exhibitions, dramatic arts and video, and as participants in the working groups.

22. Several of the youth were invited to deliver statements to the plenary session on what the three themes meant to them and their peers and their set of recommendations was presented to the closing plenary session. A group of youth reporters also documented and reported on the anniversary event from their individual perspectives, through photography, video and interviews. All of the activities were undertaken with wisdom, intelligence and clarity. They expressed their thanks to the participants for creating an environment in which they had felt respected, listened to, understood and treated as equals. As the immediate beneficiaries of the Convention, the presence of the young people helped to remind participants of the continuing relevance and importance of the Convention and that the protection and promotion of their rights is urgent not only for their lives in the future but also for their lives in the present.

23. A monograph containing documents of the event will be published in 2010.

Chapter III
Overview of the other activities of the Committee

A. Methods of work

1. Work with a two-chamber system

24. At its 1342nd meeting on 6 June 2008 the Committee decided to request the General Assembly to approve its request to work in two chambers for a period of four sessions, including the related pre-sessional working groups, beginning with its pre-sessional working group in October 2009 (see session report CRC/C/48/3). Pursuant to General Assembly resolution 63/244 authorizing the Committee to meet in two chambers for three sessions and related pre-sessional working groups, the Committee met in two chambers at its fifty-third session (11-29 January 2010) and will continue to meet in two chambers at the fifty-fourth (25 May-11 June 2010) and fifty-fifth sessions (13 September-1 October 2010).

2. General comments

25. During the period under review, the Committee adopted the following two general comments:

- General Comment No. 11 (2009) on indigenous children and their rights under the Convention (CRC/C/GC/11*), at its fiftieth session (see annex III)
- General Comment No. 12 (2009) on the right of the child to be heard (CRC/C/GC/12), at its fifty-first session (see annex IV)

26. As is the practice of the Committee, in addition to the active involvement of the Committee members, other relevant United Nations human rights treaty bodies and mechanisms, United Nations agencies and bodies, NGOs and individual experts participate in the process of drafting general comments. In addition to the two general comments adopted, the Committee is in the process of drafting two more general comments, one on the best interests of the child and another on violence against children.

3. Introduction meeting for new members

27. On 22 May 2009, OHCHR organized an informal introduction meeting to give the five newly elected members a chance to familiarize themselves with the working methods and procedures of the Committee. Six other members of the Committee also actively participated in the meeting.

B. International cooperation and solidarity for the implementation of the Convention

1. Cooperation with United Nations and other competent bodies

28. During the period covered by the present report, the Committee pursued its cooperation with United Nations bodies, specialized agencies and other competent bodies.

29. The Committee held meetings with the following United Nations agencies and bodies and other competent bodies.

United Nations agencies and bodies

- United Nations Children's Fund (UNICEF), for meetings on 16 May 2008 and 19 May 2009 with UNICEF Deputy Regional Directors aimed at strengthening cooperation between the Committee and UNICEF (forty-eighth and fifty-third sessions)
- UNICEF, Global Policy Section, regarding the Asian regional conference on Women and Children: The Human Rights Relationship, held in Bangkok in December 2007 (forty-eighth session)

Others

- Early Childhood Development Indicators Group, to continue the exchange of views regarding the development of indicators (forty-eighth session)
- Students from the Institut Universitaire Kurt Bösch (IUKB) (Sion, Switzerland), to hear about research regarding the desirability of developing an individual complaints mechanism under the Convention (forty-eighth session)
- Representative of Brazil and UNICEF, to discuss progress on the draft guidelines on children without parental care (forty-eighth session)
- Mr. Norberto Liwski of the Instituto Interamericano del Niño, la Niña y Adolescentes, to hear about the efforts of the Institute to follow up on the concluding observations of the Committee (forty-eighth session)
- Ms. Gerison Lansdown, independent consultant, to discuss links between the Convention on Persons with Disabilities and the Convention on the Rights of the Child (forty-ninth session)
- Ms. Victoria Forbes-Adam, Director, Coalition to Stop the Use of Child Soldiers, to discuss issues regarding involvement of children in armed conflict (forty-ninth session)
- Members of the secretariat of the Interagency Panel on Juvenile Justice, to discuss activities of the Panel (fiftieth session)
- Representatives of the Board of the NGO Group for the Convention on the Rights of the Child, to discuss ongoing activities and cooperation (fiftieth session)
- Public event "Towards a Communications Procedure for the Convention on the Rights of the Child" convoked by the Permanent Mission of Slovenia to the United Nations in Geneva (fiftieth session)
- Ms. Mariama Mohamed Cisse, Secretary of the African Committee of Experts on the Rights and Welfare of the Child, African Union Commission (fifty-first session)
- Representatives of the Save the Children Alliance, in connection with the Justiciability Conference that will take place on 12/13 November 2009 (fifty-first session)

- Representatives of the Executive Committee of the NGO Group for the Convention on the Rights of the Child, to discuss issues of cooperation and mutual interest (fifty-first session)
- The NGO Group for the Convention on the Rights of the Child (fifty-second session)
- Representatives of the Open-ended Working Group on an optional protocol to the Convention on the Rights of the Child, to provide a communications procedure, established under resolution 11/1 of the Human Rights Council in June 2009 (fifty-second session)
- International Catholic Child Bureau, related to the launch of a World Appeal to a New Mobilization for Childhood with a view to commemorating the twentieth anniversary of the Convention on the Rights of the Child (fifty-third session)
- Save the Children Alliance, to discuss the five-year global campaign EVERY ONE to reduce child mortality, and to introduce its preliminary findings of the analysis of the concluding observations of the Committee related to articles 2, 6 and 24 and seek comments and feedback (fifty-third session)

30. The Committee also held meetings with experts from the following other United Nations human rights mechanisms:

- Special Rapporteur on the right to education, Mr. Vernor Muñoz, to discuss issues of common interest and in particular the upcoming day of general discussion on education in situations of emergency (forty-eighth session)
- Special Rapporteur on the sale of children, child prostitution and child pornography, Ms. Najat Maalla, to discuss issues of mutual concern and cooperation (forty-ninth session)
- Members of the Committee on the Elimination of Discrimination against Women, hosted by UNICEF, to discuss cooperation between the two Committees (fiftieth session)
- The Special Representative of the Secretary-General for Children and Armed Conflict, Ms. Radhika Coomaraswamy (fifty-second session)
- Committee on the Elimination of Discrimination against Women/Committee on the Rights of the Child joint working group, first informal meeting to discuss modalities of cooperation and to identify thematic areas on which to focus. The meeting was hosted by UNICEF (fifty-third session)

2. Participation in United Nations and other relevant meetings

31. The Chairperson of the Committee, Ms. Lee, participated in the twentieth and twenty-first meetings of persons chairing the human rights treaty bodies. The Chairperson and other members of the Committee also participated in the inter-committee meetings held during the period under review:

(a) Seventh inter-committee meeting (June 2008): Mr. Lothar Friedrich Krappmann, Ms. Lee and Ms. Lucy Smith;

(b) Eighth inter-committee meeting (December 2008): Mr. Kamel Filali, Mr. Krappmann and Ms. Lee;

(c) Ninth inter-committee meeting (June 2009): Mr. Hatem Kotrane, Ms. Lee and Mr. Dainius Puras;

(d) Tenth inter-committee meeting (December 2009): Mr. Filali and Mr. Puras.

32. Members of the Committee participated in a variety of meetings at the international, regional and national levels where issues relevant to the rights of the child were raised.

C. General thematic discussions

33. In accordance with rule 75 of its rules of procedure, the Committee holds an annual day of general discussion on the first Friday of its September session. On 19 September 2008, at the forty-ninth session of the Committee, the thematic discussion was devoted to the right of the child to education in emergency situations. The discussion was well attended by representatives of States parties, United Nations agencies, funds and programmes, NGOs and academic institutions. A summary of the discussion, the list of participants and the set of related recommendations adopted by the Committee can be found in the report of the Committee on its forty-ninth session (CRC/C/49/3).

34. The Committee decided at its fiftieth session that a commemoration of the twentieth anniversary of the adoption of the Convention would be held during its fifty-third pre-sessional working group in October 2009, in lieu of its annual day of general discussion. The commemorative event took place on 8 and 9 October 2009 at the International Conference Centre Geneva and gathered more than 450 participants from States parties, United Nations bodies, national human rights institutions, NGOs and included many children and youth reporters from all regions. The Chairperson of the Committee and the High Commissioner opened the event. After the plenary, the participants divided into six working groups to discuss the themes. The report of the event is contained in annex II of the present report. The Committee also decided at its fifty-second session that it would not hold a day of general discussion in 2010 due to the increasing backlog of reports pending consideration.

Annex I

Membership of the Committee on the Rights of the Child

Name of member	*Country of nationality*
Ms. Agnes Akosua **Aidoo***	Ghana
Ms. Hadeel **Al-Asmar****	Syrian Arab Republic
Mr. Luigi **Citarella***	Italy
Mr. Kamel **Filali***	Algeria
Mr. Peter **Gurán****	Slovakia
Ms. Maria **Herczog***	Hungary
Ms. Moushira **Khattab***	Egypt
Mr. Sanphasit **Koompraphant****	Thailand
Mr. Hatem **Kotrane***	Tunisia
Mr. Lothar Friedrich **Krappmann***	Germany
Ms. Yanghee **Lee****	Republic of Korea
Ms. Marta **Mauras Perez****	Chile
Ms. Rosa Maria **Ortiz***	Paraguay
Mr. Awich **Pollar****	Uganda
Mr. Dainius **Puras***	Lithuania
Ms. Kamla Devi **Varmah****	Mauritius
Ms. Susana **Villarán de la Puente****	Peru
Mr. Jean **Zermatten****	Switzerland

* Term expires on 28 February 2011.
** Term expires on 28 February 2013.

Bureau of the Committee on the Rights of the Child 2009-2011	
Chairperson	Ms. Lee
Vice-Chair	Ms. Aidoo
Vice-Chair	Mr. Filali
Vice-Chair	Ms. Ortiz
Vice-Chair	Mr. Zermatten
Rapporteur	Mr. Krappmann

Annex II

Report on the twentieth anniversary of the adoption of the Convention on the Rights of the Child

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I. Background

1. On 20 November 2009, the international community celebrated the twentieth anniversary of the adoption of the Convention on the Rights of the Child by the General Assembly. In recognition of the consistently innovative and transformative role played by the Convention in the identification, protection and promotion of the rights of the child over the past 20 years, the Convention's monitoring body, the Committee on the Rights of the Child, decided at its fifty-first session that a two-day celebratory event to mark the Convention's anniversary was called for. The celebration was held in Geneva on 8 and 9 October 2009, at the International Conference Centre Geneva.

2. The Office of the High Commissioner for Human Rights (OHCHR), in cooperation with other partners, organized the activities that were planned by the Committee. The venue was provided by the Permanent Mission of Switzerland. Other States parties, including Norway, the Russian Federation, Turkey and Uruguay, as well as the United Nations Children's Fund (UNICEF), the Organization of la Francophonie, and the City and Canton of Geneva provided their support for the organization of the event. A number of non-governmental organizations (NGOs), in particular the NGO Group for the Convention on the Rights of the Child, had a crucial role in organizing the participation of children and experts from around the world.

3. The event provided an opportunity for celebration, reflection, discussion and the formulation of recommendations by States parties, United Nations bodies and other intergovernmental organizations, national human rights institutions, international and national NGOs, children's and youth groups, academics and all others interested in the Convention and its implementation. It is estimated that more than 700 persons, including children and young people, were in attendance. More than 60 States and 130 NGOs and academic institutions were represented.

4. The celebration was focused on the themes of dignity, development and dialogue, evoking how the Convention radically and permanently changed the way children should be viewed and addressed. Children were not simply the property of their parents or guardians in need of charity. The Convention clearly established that each child must be recognized as an individual rights-holder fully entitled to claim and enjoy those rights.

5. After 20 years of hands-on experience as the monitoring body of the Convention, the Committee has determined that the dramatic changes introduced by the Convention directly result from the interrelated and interdependent series of rights found within that can be succinctly categorized under the headings of Dignity, Development and Dialogue. This recently articulated, innovative conception will help provide practitioners, child-rights advocates and other professionals with a structured thematic road map for dealing with the principal questions related to the rights-based approach to effective implementation of the rights of the child.

6. The first theme, dignity, was selected to underline the fundamental human right enshrined in article 1 of the Universal Declaration of Human Rights that all human beings are born free and equal in dignity and rights. Under the Convention, dignity is a concept that refers to the position of the child who, as a human being and not merely as a little person, holds rights that can be claimed and must be respected. The human rights perspective, a foundation of the human rights approach,

is based on the recognition of the inherent right to dignity and worth of the person. In the context of the celebration, one of the starting points for discussions was how States parties might give effect to their obligations to respect the dignity of children. To focus the discussions, emphasis was placed on the creation and implementation of measures to prevent and protect against the sexual abuse and exploitation of children and to tackle the issue of multiple forms of discrimination faced by many children, including as a result of disability.

7. Development was selected as a second theme to provide an opportunity to reflect on prioritizing implementation of the economic, social and cultural rights of the child and to reaffirm the obligations of States parties to do so, to the maximum extent of their available resources, particularly during the current global economic crisis. The discussions embraced the interpretation of development by the Committee on the Rights of the Child as a holistic concept that included physical, mental, spiritual, moral, psychological and social development. That was of particular relevance to discussions related to the evolving capacities of the child as an enabling principle in practice. That sub-theme also underscored the importance of cooperative efforts between States parties, NGOs and civil society to bring about full implementation of the rights of the child.

8. Dialogue was chosen as a third theme to reflect the central place given to participation throughout the Convention. Yet it was also selected to further advance clarity of the right of the child to be heard. Specifically, that involves ensuring that children are taken seriously and respected as equal protagonists and active "agents" in all decision-making processes related to their lives, in accordance with their evolving capacities, in both the private and public spheres. That in turn requires an effective shift from tokenism to genuine consultation and a dismantling of the strong resistance often found in families against recognition of the right of the child to express her/his views.

9. Beyond the relevance of their specific characteristics, the three themes were also selected to highlight and examine the interconnected nature of these issues. For instance, in speaking of dignity, the participation of children must be addressed. In evoking the theme of development, children themselves must be involved in the identification and resolution of related questions. When discussing dialogue, it is not only the institutionalization of participation but also the breaking down of stereotypes at issue. Such discussions must consider means of promoting true and effective dialogue between children and adults in all spheres.

II. Objectives and expected outcomes

10. The meeting had three main objectives: (a) to celebrate the twentieth anniversary of the Convention; (b) to highlight three significant challenges to full implementation of the Convention, namely, ensuring the dignity of the child, providing the child with full possibilities for development and facilitating dialogue between adults and children in accordance with the participatory approach of the Convention; and (c) to evaluate the status and implementation of the Convention, after 193 ratifications and 17 years of reporting, while identifying priority recommendations for the future, taking into consideration the two Optional Protocols to the Convention.

11. It was anticipated that the event would result in the following outcomes: (a) the adoption of a set of recommendations on the three themes of dignity, development and dialogue; (b) a report containing examples of best practices and a discussion of shortcomings and challenges in implementation of the Convention; and (c) the discussion and adoption of the recommendations by the Committee at its fifty-third session in January 2010.

III. Activities

12. The meeting was organized around a wide variety of celebratory activities and presentations delivered by high-level speakers and children in the opening and closing plenary sessions. Between plenary sessions, interactive discussions were held in six interrelated thematic workshops.

A. Opening plenary session

13. The lively and engaging opening plenary session, held during the morning of 8 October, was chaired by Ms. Yanghee Lee, Chairperson of the Committee on the Rights of the Child. The chairperson opened the meeting with an introductory statement expressing the great anticipation felt by the members of the Committee with regard to the event and to the participation of a diverse group of child-rights experts, advocates, professionals and children. She emphasized the rare opportunity made possible by the event to combine the vast expertise and experiences of those individuals to critically examine the current situation of the rights of the child and to formulate practical solutions. Her statement reflected on some of the achievements the Committee had realized and challenges that had been overcome in the past 20 years. Among the notable contributions made by the Committee towards the realization of the rights of the child, the Chairperson highlighted the identification and elaboration of emerging thematic issues during its monitoring activities, the publication of concluding observations and general comments and the successful hosting of numerous thematic days of discussion. Those activities had been complemented and enhanced by the creation of strong partnerships and efforts to develop innovative means to address novel and continuing challenges to the full realization of the rights of the child, such as all forms of violence, discrimination and poverty. She stressed the need to move beyond deliberations to forge a set of comprehensive action-oriented recommendations that would supplement existing activities and measures to ensure that the rights of the child were a living reality, one in which children were no longer viewed in the context of "to become" in the future, but of "being" in the present.

14. The remarks of the Chairperson were followed by a message of welcome delivered by Ms. Navanethem Pillay, United Nations High Commissioner for Human Rights. In her statement, the High Commissioner drew attention to the unique nature and comprehensive scope of the legal framework created by the Convention for the promotion and protection of the rights of the child. She also paid tribute to the ground-breaking contributions and many achievements of the Committee, pointing to the value of strengthening and streamlining the treaty body system. It was further noted that despite near-universal ratification of the Convention, severe violations of the rights of the child continued to occur. The High

Commissioner also referred to the current initiative to possibly elaborate an optional protocol to the Convention that would introduce a communications procedure for violations of the rights of the child where national-level remedies had failed or did not exist. She indicated that her office would be following the issue closely and would be supporting the Open-ended Working Group on the optional protocol. The High Commissioner stressed the importance of reaching a series of recommendations during the two-day event that would help refocus national and international attention on the practical measures that must be taken to bring about effective realization of the rights of the child.

15. The second segment of the plenary session was dedicated to high-level speakers who delivered dynamic presentations on the three themes of dignity, development and dialogue. The speakers included Mr. Dante Martinelli, Permanent Representative of Switzerland to the United Nations in Geneva; Mr. Saad Houry, Deputy Executive Director of UNICEF; Mr. Samuel Zbogar, Minister of Foreign Affairs of Slovenia; Ms. Carmen Oliveira, Under-Secretary of Promotion of the Rights of the Child and Adolescent, Special Secretariat for Human Rights of the Presidency, Brazil; Ms. Lotte Grepp Knutsen, Deputy Minister for Children and Equality in Norway; Mr. Krzysztof Stanowski, Under-Secretary of State, Ministry of Education, Poland; Mr. Bela Ajzenberger, Assistant Minister for International Cooperation and Integration, Ministry for Human and Minority Rights, Serbia; Mr. Thomas Hammarberg, Commissioner for Human Rights at the Council of Europe, former member and Vice-Chair of the Committee on the Rights of the Child; and Mr. Peter Newell, Vice-President of the NGO Group for the Convention on the Rights of the Child.

16. Mr. Jean Zermatten, current member and Vice-Chair of the Committee on the Rights of the Child, and one of the guiding forces behind the event, delivered a statement on the genesis of the Convention and provided a substantive overview of the essential elements of the three themes and the reasons they had been selected as the thematic guideposts for the event. He also outlined the organization and anticipated outcomes of the meeting.

17. As part of the commitment of the Committee to ensure the active participation of children and young people in the event, three young people, Yrvin from the Dominican Republic, Miriam from Norway and Angela Patricia from Colombia, were invited to deliver a statement on what the three themes meant to them and their peers. The young people were selected by the children and youth at the event to represent their views and they expressed thanks for being entrusted with that task. They also thanked the participants for taking the time to hear and consider their views.

18. The young people underlined their need for support from adults to facilitate communication with national authorities and leaders and stressed the need for Governments to listen to their voices and trust in their capacities. They reminded participants that children had often demonstrated their capacities to be part of effective solutions and urged parents and other adults to recognize them as both human beings and citizens. Meaningful dialogue between children and Governments and children and their parents was highlighted as a means of contributing to participatory development and the achievement of peace. To that end, the speakers expressed their wish for improved communication with adults based on full respect for their thoughts and perspectives. It was further suggested that investments in

children should be seen as investments in development. Through their participation in the proceedings, the youth not only provided a constant reminder of the continuing relevance and importance of the Convention, they also generated an environment of enthusiasm through all of their activities that remained evident throughout the two days.

19. In addition to the statements and presentations delivered, the plenary session featured a musical performance and film screenings that reinforced the commemorative nature of the day. Osir, a rapper from Switzerland with a strong commitment to children's rights, and singer Loubna, performed a powerful rap song entitled "L'Enfant de l'Oubli". The song about the defence of children's rights had been composed for Plan International in the context of their campaign "Because I Am a Girl". Many of the youth moved from their seats to the front of the stage where they were able to enjoy and record the performance.

20. As part of their year-long activities to commemorate the twentieth anniversary of the adoption of the Convention, UNICEF produced a series of short public service announcements featuring videotaped messages from UNICEF Goodwill Ambassadors and high-profile advocates who highlighted particular issues of concern related to the rights of children. Those videos were screened during the event.

21. Three short human rights films were also screened which addressed the importance of dignity, development and dialogue in the voices of the filmmakers, and demonstrated the value of art to help attain these goals. The screened films were: *Lily and Ra*, by Armagan Ballantyne of New Zealand; *La Mangue*, by Idrissa Ouedraogo of Burkina Faso; and *The Final Match*, by Saman Salour of the Islamic Republic of Iran. The films were among 22 films that had been produced by some of the world's leading directors and commissioned by OHCHR to mark the sixtieth anniversary of the Universal Declaration of Human Rights.

B. Working groups

1. Organization of working groups

22. To further explore the substantive elements of the event, the three themes of dignity, development and dialogue were divided into two sub-themes each for discussion and analysis in six working groups. Together, the working groups aimed to identify achievements in implementation and provide examples of best practice; identify challenges and constraints, as well as formulate priority recommendations to enhance implementation of the Convention. The working groups met in parallel in the afternoon session of 8 October and during the morning and early afternoon sessions of 9 October.

23. The working groups were thematically organized as follows: under Dignity, Children: rights-holders versus commodity (working group 1) and Discrimination against children (working group 2); under Development, States parties' obligations: realizing economic, social and cultural rights — Are child rights a luxury during an economic crisis? (working group 3) and Evolving capacities as an enabling principle in practice (working group 4); under Dialogue, A new democratic dynamic: child participation in the public sphere (working group 5) and Children's voices in the family: overcoming resistance (working group 6). In advance of the event, six

background papers (one for each sub-theme) had been prepared and posted on the OHCHR website. More detailed information on the discussions of the working groups can be found in the following section.

24. Within each working group, three to six expert panellists delivered presentations on their respective sub-themes. Expert panellists included:

(a) Working group 1: Ms. Najat M'jid Maalla, Special Rapporteur on the sale of children, child prostitution and child pornography; Ms. Ana Elisabeth Cubias Medina, member of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families; Mr. Enyo Gbedemah, Plan Togo; Ms. Yoshie Nogushi, International Labour Organization; and Ms. Leila Paiva, Brazilian National Programme to Combat Violence against Children;

(b) Working group 2: Mr. Mohammed al-Tarawneh, Chairperson of the Committee on the Rights of Persons with Disabilities; Ms. Karolina Lindholm Billing, senior liaison officer of the Protection Policy and Legal Advice section of the Office of the United Nations High Commissioner for Refugees; Mr. Jens Matthes, Chief of the Child Rights Advocacy and Education, Private Fundraising and Partnerships Division, UNICEF; and Mr. Patricio Cuevas, World Vision Lebanon;

(c) Working group 3: Ms. Marta Mauras Perez, member of the Committee on the Rights of the Child; Ms. Georgina de Villalta, Red latinoamericana y caribeña por la defensa de los derechos de los niños, niñas y adolescentes (Redlamyc); Mr. Assefa Bequele, African Child Policy Forum; and Mr. Joost Kooijmans, International Labour Organization;

(d) Working group 4: Mr. Jaap Doek, former Chairperson of the Committee on the Rights of the Child; Ms. Claire Brisset, International Organization of la Francophonie; and Mr. Alan Kikuchi-White, general representative, SOS Children's Villages International;

(e) Working group 5: Ms. Mona Sandbak, Oslo University; Mr. Sabri Rahman, Malaysian Children's TV Foundation; Ms. Silvina Francezón, Global Infancia, Paraguay; Ms. Samantha Dimmock, Children's Rights Alliance for England; Ms. Valentyna Dovzhenko, World Child's League of Nations; and Ms. Maria Gabriella Lay, International Labour Organization;

(f) Working group 6: Mr. Elkane Mooh, Save the Children; Mr. Norberto Liwski, former member of the Committee on the Rights of the Child; Mr. Stefan van der Swaluw, International Child Support, Africa; and Mr. Luigi Citarella, member of the Committee on the Rights of the Child.

25. Six child participants had also been selected to participate in each of the working groups. Each of those children actively participated in their respective working group discussions, followed the presentations and contributed thoughtful and insightful comments to the discussion. The views and interventions of the children were taken into account by the other participants and positively influenced the elaboration of the working group recommendations.

26. The working groups were chaired by recognized experts in the rights of the child and State party representatives, including Ms. Nora Castro of Uruguay (Group of Latin American and Caribbean States) (working group 1), Mr. Karl Hanson, Institut Universitaire Kurt Bösch, Sion, Switzerland (working group 2), Mr. Ridha Khemakhem, Government of Tunisia (working group 3), Ms. Jacqueline A. Oduol,

Secretary for Children's Affairs, Ministry of Foreign Affairs, Kenya (working group 4), Ms. Nevena Vuckovic-Sahovic, former member of the Committee on the Rights of the Child (working group 5), and Mr. Bjarne Daehli, President of the Norwegian Children and Youth Council (working group 6).

27. Between one and two members of the Committee on the Rights of the Child served as Rapporteurs for each of the six working groups. These members included Ms. Susana Villarán de la Puente (working group 1), Ms. Maria Herczog and Mr. Sanphasit Koompraphant (working group 2), Mr. Dainius Puras and Mr. Awich Pollar (working group 3), Mr. Lothar Krappmann (working group 4), Mr. Peter Guran (working group 5) and Ms. Kamla Devi Varmah and Ms. Hadeel al-Asmar (working group 6).

28. Three members of the Committee on the Rights of the Child had been appointed as thematic General Rapporteurs for the working groups, namely, Mr. Hatem Kotrane for Dignity; Ms. Agnes Akosua Aidoo for Development and Ms. Rosa Maria Ortiz for Dialogue. The thematic General Rapporteurs compiled and presented the general findings and recommendations of their respective working groups to the closing plenary session.

29. Mr. Kamel Filali was appointed as General Rapporteur for the event and presented to the closing plenary session a summary of the discussions and recommendations that had emerged from the working groups.

2. Summary of working group discussions

Theme I: Dignity

Working group 1: Children: rights-holders versus commodity

30. Working group 1 was dedicated to the first sub-theme under the issue of ensuring the dignity of the child. A child participant from Uganda participated in the working group.

31. Participants agreed that a society that cared for its children would offer them freedom and dignity, by creating conditions that would allow them to develop their potential and to have a full and satisfactory life as an adult. Thus, the child was regarded as the holder of a right to protection by society as a whole.

32. Participants also commented on the contradiction that although children were able to enjoy many rights and receive care and special attention, they were also exposed to more risks than they had been in the past. That was particularly true for children without proper identity documents, abandoned children and children living in other difficult situations.

33. The working group focused on the global epidemic of sexual exploitation and abuse of children as one of the primary challenges to the new status of the child as an independent rights-holder. In considering more effective ways to tackle that issue, participants agreed that a proactive approach should be adopted which would give priority to actions that were integrated in a coherent rights-based system of prevention.

34. Working group participants were reminded that, in addition to the Convention and its two Optional Protocols, there were general references which could be used, including the recommendations of the Third World Congress against Sexual

Exploitation of Children and Adolescents held in Rio de Janeiro in November 2008 and the recommendations of the Secretary-General's Study on Violence against Children.

35. Participants also emphasized that a number of intersectoral problems have negatively impacted on the situation of children, such as violence in the media and in digital formats, including child pornography; harmful traditional practices, including female genital mutilation and early and forced marriages; as well as violence against children belonging to ethnic minorities or migrant communities and those who were infected with or affected by HIV/AIDS.

36. During the discussions, it was stressed that further study was needed in order to combat and overcome the underlying societal attitudes that tolerated sexual abuse and exploitation of children, including beliefs that suggested sexual intercourse with a child could cure HIV/AIDS.

37. Efforts to dramatically improve coordination between all relevant actors engaged in the fight against child sexual abuse and exploitation were strongly emphasized as an important step that needed to be taken at the national level, including within and between line Ministries and in the judicial system.

38. Participants focused on the need for a long-term multisectoral and holistic approach that could help identify and tackle the underlying factors and root causes of child exploitation and abuse, including poverty and gender discrimination. The necessity of including clear prevention strategies in legislation to combat child exploitation and sexual abuse was stressed, as was the importance of involving children as full participants in the design and implementation of prevention strategies.

39. Schools were highlighted as playing a potentially key role in the prevention of child exploitation and abuse. To that end, schools must become safe places for children. Fighting violence in the school system, notably by promoting positive and non-violent methods of discipline, should be prioritized. A positive example from Ghana was presented about the introduction into schools of positive forms of discipline which had contributed to the prevention of child abuse.

40. Building sustainable birth registration systems and establishing comprehensive data-collection systems were identified as potentially effective tools that could be used to prevent child sexual exploitation and abuse.

41. Participants agreed that any global intervention for the efficient rights-based prevention of different forms of abuse and violence should be based on: the best interests of the child, which must be the primary consideration in all interventions and decisions; the primary responsibility of the parents and their active implication in all phases of intervention required by the prevention and protection framework; and respect for the views of the child and her/his participation, in accordance with her/his age and maturity, in all social, administrative and judicial measures affecting her/him.

Working group 2: Discrimination against children

42. Working group 2 was dedicated to the second sub-theme under the issue of ensuring the dignity of the child. The focus of the working group was on addressing the de facto, and frequently de jure, forms of discrimination against children with a

particular emphasis on the pervasive and widespread problem of discrimination faced by children with disabilities. The purpose of the working group discussion was to explore some of the underlying causes of discrimination, to consider the obligations of States parties, to identify examples of best practices that had been taken to dismantle and eradicate discrimination and to suggest a set of priority recommendations that should be undertaken.

43. Participants discussed the discrimination that children around the world often faced as a result of their status as children, discrimination that was frequently compounded as a result of their gender, disability and/or ethnicity.

44. A number of participants pointed to the issue of harmful traditional practices, such as prenatal sex selection, female genital mutilation and early marriages, which were often deeply rooted in culture and tradition and might be difficult to challenge at the local level. Participants drew attention to other issues frequently connected with discrimination, including new forms of co-parenting, same-sex couples with children, anonymous births and children who were unaware of their origin. Participants suggested that the complexity of some of those issues necessitated more time for discussion.

45. Awareness-raising campaigns, the dissemination of information, human rights education and the promotion of dialogue and exchange programmes were all highlighted as effective tools to challenge stereotypical views and beliefs, to generate greater understanding of the causes and effects of discrimination and to promote equality. The dissemination of information related to the Convention on the Rights of the Child, the Committee and its concluding observations and general comments, was also considered to be essential to full implementation of the Convention.

46. It was also suggested that inclusive interaction and dialogue between people from different backgrounds could help promote an understanding of the many ways in which discrimination affected children. Children and young people should be included in that dialogue, and interaction should be promoted as a means of combating discrimination.

47. Implementation of the Convention was recognized as an obligation of States parties. As a result of divisions of power, it was noted that closer links needed to be established between national and local authorities to ensure effective implementation at all levels. To that end, States parties should develop monitoring mechanisms.

48. The collection and use of research, data and indicators, as had been carried out by the European Union Agency for Fundamental Rights, was highlighted as an effective means of providing useful information on various forms of discrimination in a community, for instance, regarding the Roma and education, migrants and minorities, trafficking, disability and the implementation of child rights. It was noted that future research undertaken by the Agency would involve children, in line with article 12 of the Convention.

49. According to the youth participant, the young people at the event recommended that combating discrimination against children necessitated, inter alia, the creation of legislation to address early marriage, the establishment of protection centres for children who faced discrimination, and improved access to education for children with disabilities.

50. The depiction of children in fund-raising, media, advertising and research activities was discussed as an issue of concern, as the images of children might not respect the dignity or identity of the child. Governments, donors, NGOs and other relevant actors should employ only ethical approaches and behaviour in such initiatives. The need for the development of strict guidelines and codes of conduct was stressed as crucial. The use of non-discriminatory language must also be considered, for instance, the use of the term "sexual exploitation" rather than "child prostitution". Although the media was identified as an important tool that could be used to combat discrimination, caution was raised that it might also be misused.

51. Participants discussed the importance of accessible recourse procedures for victims of discrimination at the international, national and local levels. Those procedures should include judicial and administrative mechanisms and processes, such as mediation and recovery assistance. In that context, reference was made to the campaign for an optional protocol to the Convention to establish a complaints/communications procedure.

52. Finally, participants agreed that common issues had often arisen in the work of the different treaty bodies (particularly that of the Committee on the Rights of the Child, the Committee on the Elimination of Discrimination against Women, the Committee on the Elimination of Racial Discrimination and the Committee on the Rights of Persons with Disabilities). As a result, there should be closer collaboration and coordination between the committees on certain issues, for instance, between the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child on the girl child and between the Committee on the Rights of the Child and the Committee on the Rights of Persons with Disabilities on children with disabilities. That collaboration could take different forms, such as thematic discussions or the issuing of joint general comments, with a view of achieving greater synergy.

Theme II: Development

Working group 3: States parties' obligations: realizing economic, social and cultural rights — Are child rights a luxury during an economic crisis?

53. Working group 3 was dedicated to the first sub-theme under the issue of providing the child with full possibilities for holistic development. The primary topic of the working group was the progressive realization of economic, social and cultural rights under article 4 of the Convention in the light of the current global economic crisis. More specifically, participants focused on how to ensure that States parties strategically identified and prioritized the activities and measures that needed to be undertaken to implement their obligations under the Convention "to the maximum extent of their available resources", with an emphasis on options and best practices.

54. Time limitations and a high level of participation among a large number of participants prevented an extensive discussion leading to a common position. Nevertheless, the following ideas emerged as consensual:

(a) The working group asserted that realizing the economic, social and cultural rights of the child during economic crisis is not a luxury but a necessity;

(b) The current economic crisis should not be used as a pretext or an excuse to postpone or delay implementation of policies and programmes to fulfil children's rights;

(c) The role of the Committee on the Rights of the Child should be strengthened to pursue issues pertaining to economic, social and cultural rights.

55. The financial and economic crisis had clearly had a negative impact on children and the realization of their economic, social and cultural rights. Lessons from previous regional or global crises (i.e. Asia) had demonstrated that children, women and the elderly were disproportionately affected, both within the family and in society at large. The reduction of remittance flows, for example, had increased the vulnerability of families. Child labour also appeared to be on the rise.

56. The large number of fiscal and economic stimulus packages that had been announced by many Governments demonstrated that resources were in place. However, it remained unclear what level of priority had been accorded to child protection and human development issues on Government agendas.

57. "Child-friendly" Government spending was proposed as a possible tool for low- and middle-income countries (i.e. Africa) to improve the well-being of children and stimulate investment in human capital.

58. A rights-based approach to child poverty (which was a severe violation of the rights of the child under articles 5, 6, 24, 27 and 28 of the Convention on the Rights of the Child), should guide policy formulation as a priority. The obligation to ensure rights "to the maximum extent of their available resources" was understood to mean that States parties must ensure and sustain significant budget allocations while also ensuring the creation of the legal and institutional basis to support low-cost mechanisms that had proven effective (for example breastfeeding). The non-retrogressive nature of economic, social and cultural rights was emphasized, as well as the need to view all of the rights of the child (civil, cultural, economic, political and social rights) in a holistic manner.

59. Participants noted that child-related issues should be prioritized in the context of development cooperation, and that attention must be given to the transfer of technology and best practices between developing countries. A "solidarity tax" that was being collected on airline tickets under a cooperation agreement among Brazil, Chile, France and Germany was mentioned as one example of how the collection of an "international tax" could be used towards the eradication of poverty. It was also stressed that wherever possible, international development assistance should not be reduced during the economic crisis. In that regard, an example was given from Belgium.

60. National action plans for children, which had been consistently recommended by the Committee on the Rights of the Child during the review of the periodic reports submitted by States parties, were suggested as an important tool that Governments could use to ensure that children remained high on the agenda in times of crisis. Such plans, however, needed to be evidence-based, draw on national budgets, and be clearly linked to national plans. Strategies should aim at ensuring equal access to services for children in all regions, irrespective of whether the service providers were Government, civil society or private companies.

61. The importance of rights-based indicators for tracking the impact of social investment and specifically of the financial crisis was also discussed. To measure child poverty, indicators must focus beyond income into areas such as health, education, shelter, peace and others. Regional examples of best practices were given in that regard, including from Argentina and Chile. Attention was also drawn to the work of OHCHR on the elaboration of indicators.

62. The importance and resilience of families and their ability to shield children from the negative effects of the crisis at the microeconomic level should not be underestimated as regional experience showed (for example in Africa, Asia and Latin America).

63. Social protection as an extension of social security was identified as a right; as a result, it must be part of efforts aimed at reducing the impact of any crisis. Regional and programmatic experiences demonstrate that that could be achieved by, inter alia, implementing counter-cyclical policies mainly oriented towards supporting families at all times, especially during crises (i.e. Chile), conditional cash transfers (International Programme on the Elimination of Child Labour), and stimulating small- and medium-sized enterprises.

64. It was noted that children should be recognized as rights-holders who were entitled to legally claim their rights. As such, it was stressed that child participation should be promoted as a mandatory component of informing and formulating decisions. Children's parliaments and associations had the potential to generate a tremendous amount of ideas. A case was also made for the financial empowerment of children through rights-based and life-skills training.

Working group 4: Evolving capacities as an enabling principle in practice

65. Working group 4 was dedicated to the second sub-theme under the issue of providing the child with full possibilities for holistic development. The working group considered how to interpret and more effectively implement universal human rights standards in the light of diverse stages and realities of childhood, including by exploring the principle of the evolving capacities of the child. Also under consideration was the recognition that evolving capacities of the child were related to children's participation at home and in the public sphere, particularly in relevant decision-making processes. One particular question under discussion was how to balance the growing capacity of the child to exercise her/his rights in all spheres while at the same time respecting the rights and responsibilities of parents to give appropriate guidance to their children.

66. Participants identified three main issues with regard to ensuring each child had full possibilities for development, including: (a) how to effectively and fairly assess the capacities of each child in order to give due weight to her or his views; (b) the need to balance the growing capacities of the child to exercise her/his rights while respecting the rights and responsibilities of parents to provide them with guidance; and (c) to what extent are the best interests of the child considered when weighing competing interests.

67. It was stated that there was an absence of a clear legal framework related to the "evolving capacities" of the child (for instance, the Convention does not restrict the exercise of the rights of the child on the grounds that the capacities of a child are not fully evolved). Nevertheless, several provisions of the Convention recognize

different degrees of development and stipulate that States parties' obligations must be undertaken in accordance with the particular stages of a child's development (articles 5 and 12). Similarly, article 3 (h) of the Convention on the Rights of Persons with Disabilities refers to evolving capacities.

68. Several participants noted that the "evolving capacities" concept was controversial and had the potential to be misused to limit rather than enhance the child's enjoyment of her/his rights, including in diverse cultural contexts.

69. Participants reinforced the responsibility of adults to confront the child with challenges that elicited her or his capacities and to balance that promotion with the protection of the child against demands with which the child might be unable to cope.

70. Many participants asserted that States parties should support and assist parents, legal guardians and others with primary responsibility for the care and protection of the child to enhance their creation of an environment in which the capacities of children could develop in a harmonious and healthy manner (also referred to as a "new paradigm of parenting"). At the same time, States parties should respect the family sphere and the role and obligations of parents. Social and cultural contexts should be taken into account.

71. The importance of strengthening the capacity of adults to communicate effectively with children of all ages, including through guidance and training, was emphasized.

72. Several participants mentioned that the issue of evolving capacities concerned children of all ages. In that respect, adolescents aged 15 to 17 years old in particular were noted as often having the capacity to make their own decisions. A number of participants suggested that States parties should consider the establishment of specific ages for the independent exercise of some rights while allowing for flexible application. That would recognize the capacities of the child and also provide necessary protection and clear standards for those responsible for the implementation and monitoring of the rights of the child. A detailed discussion on that issue included the right to health, the right to education, the selection of an occupation, membership in political parties and associations, freedom of religion, choice of friends, social contacts and networks, the decision to marry and the situation of detention. Participants agreed that the establishment of "appropriate ages" was highly controversial.

73. Participants discussed the distinction between formal and informal settings and several participants noted that States parties should avoid regulations that require an assessment of the individual child's evolving capacities every time she/he wished to exercise one of her/his rights — particularly in the exercise of the right to be heard. It was generally agreed that in all informal settings, such as the family, every child should be provided with meaningful opportunities to express her/his views without a prior assessment of her/his evolving capacities.

74. The child participant raised the issue of career development as an example that a child should be heard without any condition. The child participant commented that child participation in his country was based on the age of the child (10-18 years), and he insisted that younger children (0-9 years), children with disabilities, refugee and internally displaced children must also have opportunities to be heard.

75. Several participants stressed that children's opinions should be duly taken into account on decisions that affect their lives, including separation, divorce, adoption, alternative care/placement and, more controversially, with regard to reproductive health issues (i.e. abortion).

76. Participants highlighted the need to take account of the differences in children's ways of developing and mobilizing their capacities, bearing in mind their diverse cultures, backgrounds, living circumstances, experiences and needs, and that their individual identities must be respected.

77. Furthermore, participants emphasized the essential role played by educational institutions with regard to the promotion of the holistic development of the child's capacities. To that end, States parties should support the development of formal participation mechanisms at schools and more widely at the national level, so that children could effectively use the capacities which they had acquired.

78. Participants also recommended that States parties develop indicators measuring progress, or lack thereof, in recognition of the evolving capacities of a child to independently exercise her/his rights.

Theme III: Dialogue

Working group 5: A new democratic dynamic: child participation in the public sphere

79. Working group 5 was dedicated to the first sub-theme under the issue of facilitating dialogue between adults and children in accordance with the participatory approach of the Convention on the Rights of the Child. As a thematic starting point, the working group discussed the importance of effective dialogue between children and adults wherein an equality of position was recognized between the two, who were each understood as effective participants in the dialogue. Although the right of the child to be heard was clearly articulated in the Convention, the working group focused on how to translate that right into effective and participative dialogue among the Government, community organizations, NGOs, adults, parents and children, and among children themselves. Also at issue was how to move beyond tokenism to institutionalize linkages between children and decision makers and ensure their full participation.

80. It was suggested that more attention should be focused on providing support and guidance to parents, including through the Committee of Ministers Recommendation (2006) 19 on policy to support positive parenting (Council of Europe).

81. Participants agreed that legislation was insufficient without implementation.

82. Schools should be utilized as places to both teach and practice human rights, bearing in mind the diversity of children and their need for information. It was suggested that civic education classes should be introduced much earlier. Special attention should be given to girls' participation. More examples of best practices were needed, for example, regarding youth participation on school councils.

83. Several participants emphasized the need to develop guidelines on child participation for their empowerment and to ensure that mechanisms were institutionalized at the national and regional levels. Children were noted as having a strong interest in political participation. How to ensure child participation in non-democratic countries which also lacked "civil society participation" was a point

of controversy. A number of participants asserted that despite statements to the contrary, tokenism remained all too common.

84. Legal impediments in some countries prevented the recognition of children's organizations. It was also stated that inconsistencies must be addressed in countries where children were recruited under the age of 18 but were not eligible to vote.

85. Identification of those groups who found it most difficult to participate in the public arena should be a key consideration in efforts to promote child participation. Positive examples of child participation in budget planning in Latin America were given. Other positive examples included experiences of child participation in parallel reporting to the Committee. The importance of involving children and informing them of the role they could play was underlined as was the importance of the presence of accompanying adults.

86. It was suggested that efforts be undertaken to convince media to provide children with airtime. Positive examples were given of children taking a lead role in broadcasts, including on current affairs. Information was shared about an International Labour Organization project entitled "Supporting Children's Rights through Education, the Arts and Media (SCREAM)" which supported the building of skills, self-confidence and awareness-raising. That in turn helped to generate solidarity and brought child labour issues to the attention of other children.

87. It was further stated that NGOs should collaborate and unify their efforts.

88. The child participant was invited to comment on all interventions. He provided significant insight into the situation of children in Sri Lanka, particularly with regard to their participation in the public sphere. A number of other child participants also made public interventions during the discussions.

Working group 6: Children's voices in the family: overcoming resistance

89. Working group 6 was dedicated to the second sub-theme under the issue of facilitating dialogue between adults and children in accordance with the participatory approach of the Convention. The working group focused on the resistance in many families to the notion that children had the right to be heard and express their views at home. That was often because the idea of equality of children challenged traditional notions of familial roles. The Committee had consistently underlined that children had the right to be heard in their home environments and other areas of the private sphere, and to fully participate in decision-making processes that would affect their lives, in accordance with their maturity and evolving capacity. The starting point of the working group was how to move from the elaboration to the realization of that right.

90. Among the first points of agreement reached by the participants was that the rights of the child must be translated into effective and participative dialogue within the family. Dialogue was repeatedly emphasized as crucial to the prevention of violence.

91. A significant amount of discussion was devoted to addressing some of the challenges to full dialogue in the family. Many of the participants indicated that one of the main reasons for lack of dialogue was due to limitations of time. It was suggested that in order to have effective dialogue within the family, parents must spend sufficient time with children. In that regard, participants agreed on the

importance of flexible working hours and family-friendly labour policies and legislation.

92. An additional element considered to hinder dialogue within the family was the fear among parents of losing their authority. In that regard, numerous participants underlined the importance of human rights education for parents and other caregivers as well as for children, with a view to increasing their awareness of child rights and how they could be exercised within the family context. The child participant insisted that human rights education should also be provided within the schools.

93. A lack of dialogue within the family due to cultural traditions was a subject of debate throughout the discussions. It was agreed that there was a need to respect prevailing cultural values in the family and wider society. Participants emphasized that those values should be taken into consideration only if they did not contradict the principles and provisions of the Convention.

94. Participants noted that lack of dialogue often resulted from intergenerational problems. In that sense, the transfer of traditions and values from one generation to another played an important role. One solution offered was to reinforce parenting skills, support parents and provide them with guidance, including through family mediation services.

95. Participants agreed that particular attention must be paid to displaced children such as migrant, asylum-seeking or refugee children and those who had been internally displaced, as well as those with specific needs, such as children of divorced parents, children in alternative care, children with disabilities and children in conflict with the law. It was also agreed that particular measures must be taken to encourage respect for the views of the girl child.

96. Participants underlined the important role of the Committee with regard to overcoming resistance to the notion that children had the right to be heard and express their views at home. The working group included several concrete suggestions for the Committee in its six recommendations, including the need for guidelines on child participation within the family.

97. Additionally, the child participants in working group 6 developed their own recommendations. In particular, they invited States parties to take measures to empower the families to overcome poverty so that parents could stay with their children and would not have to leave their country to work abroad. Parents were encouraged to develop better time management so that at least one could be at home when the children returned from school. The child participants also recommended that human rights education be included in school curricula, giving special attention to children's rights in accordance with the Convention. Girls should be given the same rights as boys with respect to providing their views in matters affecting them.

3. Recommendations

98. The recommendations as submitted by the six thematic working groups are as follows:

Working group 1: Children: rights-holders versus commodity

1. **Integrated approach to prevention and protection based on the rights of the child**: Establish a long-term system of prevention and protection against

abuse and sexual and economic exploitation of girls and boys through the development of an effective multisectoral and inter-institutional coordination mechanism that is based on a holistic, dynamic, decentralized and evolutionary approach. Report, on a regular basis, on the progress made in the implementation of this system at all levels. Ensure the active participation of children in all stages of elaboration of public policies on children.

2. **Legislation**: Expedite the ratification by all States of international and regional human rights instruments, in particular the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and adopt a legal framework in conformity with these instruments, criminalizing all forms of child exploitation and providing for universal jurisdiction.

3. **Investigation, complaints and penalty mechanisms**: Establish effective procedures and mechanisms to receive and follow up on complaints, and investigate and punish those soliciting, promoting and profiting from child exploitation networks (cybercrime, drug trafficking), taking into account the necessary adaptation of the justice system to the needs of children, notably through the establishment of appropriate special measures, mechanisms and programmes to ensure the protection of child victims and witnesses of criminal acts and their social reintegration. Set up effective mechanisms against impunity and corruption.

4. **Favourable environment**: Guarantee that children enjoy a protected and secure environment within families, communities, schools and institutions by promoting positive and non-violent education methods. Organize information, awareness and training campaigns on children's rights for families, communities, schools, institutions, municipalities and local leaders and involve them in all preventive actions against child abuse and exploitation. Identify vulnerable children, and give particular attention to those children who are refugees, displaced, migrants, orphans, non-registered and/or who belong to poor families, street children, those involved in armed conflict, those deprived of their family environment, and those who are orphans because of AIDS and adopt effective measures to fight poverty and support the most destitute families.

5. **Private enterprise/media**: Make aware the media and private enterprises (Internet and telecom companies, the tourist sector, banks) of the fight against child abuse and exploitation. Prohibit the use of Internet sites and other technologies that use and/or portray children for the purpose of sexual exploitation on and offline. Identify and dismantle financial devices aimed at concluding transactions involving child exploitation. Develop public/private partnerships to support the development of educational and awareness campaigns.

6. **International cooperation**: Strengthen international cooperation in connection with the fight against child abuse and exploitation and establish, including through multilateral agreements, a system for technical and financial assistance, as well as for the exchange of information and good practices, in particular with respect to police investigations carried out in the framework of the fight against organized crime.

Working group 2: Discrimination against children

1. **Strengthening collaboration between treaty bodies**: Given the interrelated and overlapping nature of various grounds and forms of discrimination, the treaty bodies are encouraged to strengthen their collaboration in various ways, across areas and at different levels through, for example, a joint general comment on discrimination or joint days of general discussion.

2. **Depiction of children**: In order to respect the inherent dignity of the child and to respect children as a group, States parties should reference,[1] develop and/or strengthen guidelines (such as codes of conduct, codes of ethics) and legislation regarding the depiction of children by the media, and in fund-raising, advertising and research (and any other purpose), and involve civil society partners in such activities.

3. **Research, data collection, monitoring, evaluation**: Promote research on and monitoring and evaluation of various grounds and forms of discrimination against children to strengthen the implementation of the Convention on the Rights of the Child and relevant policies. Consideration should also be given to establishing national indicators, among other tools. In particular, the active participation of children should be encouraged and their views should be taken into account with a view to informing policies and practices. Wide dissemination of the outcomes is needed.

4. **Prevention of discrimination**: States parties, civil society and all stakeholders should seek to prevent discrimination through measures aimed at changing attitudes by promoting dialogue, addressing structural injustices, disseminating information and providing human rights education (non-violent communication, conflict resolution, promotion of exchange programmes and inclusive participation). Investment in evidence-based practices is required.

5. **Remedies**: States parties should ensure the availability of and accessibility to recourse procedures at the international, national and local levels, providing remedies for individual children and groups of children who have been victims of discrimination. These procedures should have a broad scope and should include judicial and non-judicial procedures (mediation, recovery assistance (social, health-related, psychological)).

6. **Child rights mainstreaming**: States parties should be encouraged to cooperate closely at the local, subnational, national and international levels to ensure mainstreaming of the rights of the child to prevent and tackle discrimination, including through the implementation and monitoring of the Convention on the Rights of the Child.

Working group 3: States parties' obligations: realizing economic, social and cultural rights — Are child rights a luxury during an economic crisis?

1. **National plans of action**: In the current economic crisis, which can be used as an opportunity and a test of political will, national plans of action for children should be reviewed or developed, and anchored in national development strategies, incorporating sustainable social protection policies, with time-bound indicators and strategic budgets for universal policies in the fields of health, quality

[1] For example, the Oslo Challenge.

education, nutrition, social security and justice for all children. These national plans of action and policies should be elaborated in a participatory manner involving children and their families.

2. **Policymaking and indicators**: Policymaking should be evidence-based, building on a renewed impetus of data collection and analysis, particularly the establishment of child-focused benchmarks. The Committee may wish to endorse in the future a set of concrete human rights-based indicators and specify what is understood by "to the maximum extent of available resources" (art. 4 of the Convention) in conjunction with the principle of progressive realization. The Committee may also wish to define its parameters for child poverty.

3. **Financial stimulus activities**: States parties should ensure that financial stimulus packages and other efforts to revitalize the economy contain child-centred components, and aim specifically at strengthening the resilience of the family, for example by supporting small and medium-sized enterprises and conditional cash transfer programmes.

4. **Responsibility of the business sector**: States parties should appropriately encourage the business sector to minimize the risk that their activities might result in violations of children's rights and underline that the business sector has social and environmental responsibilities.

5. **Justiciability of economic, social and cultural rights**: States parties should undertake all appropriate legislative, administrative and other measures to ensure the justiciability of the economic, social and cultural rights of children. States parties are encouraged to support current efforts to create a new international complaints procedure as a tool to further strengthen the implementation of these rights.

6. **International development and cooperation**: Countries should be urged in the global management of the current economic crisis to protect present levels of contributions towards international development and cooperation, which strategically prioritize the rights of the child. In this context, countries should be invited to participate in the panel during the High-level Segment of the thirteenth session of the Human Rights Council, in March 2010, to discuss and evaluate the impacts of financial and economic crises to the realization of all human rights worldwide.

Working group 4: Evolving capacities as an enabling principle in practice

1. **An environment supporting the evolvement of capacities**: States parties should support and assist parents, guardians and others with responsibilities for the care, development and protection of the child to create a supportive and protective environment in which the capacities of the child can fully develop, enabling the child to increasingly exercise her/his rights in her/his best interest. Ensuring the evolvement of the capacities of the child must be one of the principle aims of parents. States parties should support parents in these efforts, yet abstain from undue interference in family life. The social and cultural contexts should be taken into account.

2. **Education**: States parties should recognize the important role that education can play with regard to promoting the development of the capacities of the child and enabling the child to more fully exercise her/his rights. Educational

institutions can enhance these efforts if they operate as communities of children and adults who cooperatively develop education, learning and the social life at their school, care or education facility. States parties should support schools and other educational facilities in establishing structures and processes that encourage children to apply and further develop their capacities.

3. **Establishment of appropriate ages**: States parties should respect the child as a person with evolving and evolved capacities to exercise her/his rights. States parties should consider the establishment of appropriate ages for the independent exercise of some rights, for example in the field of medical treatment or the choice of educational careers. In such instances, a consultation with the child may be required in order to assess her/his capacities while also ensuring that appropriate protections for the child are in place. Clear standards must be developed for adults who have responsibility for the respect and implementation of the rights of the child.

4. **Exercise of the right of the child to be heard**: States parties should avoid regulations that require an assessment of the individual child's evolving capacities any time she/he wishes to exercise her/his right to express her/his views, in order to provide the child with rich opportunities to experience the full exercise of this right. In particular, in all informal settings, such as the family, every child should be provided with meaningful opportunities to express her/his views without a prior assessment of his/her evolving capacities.

5. **Recognizing the diversity of capacities**: States parties should take due account of the differences in the way children develop and mobilize their capacities. Children are girls and boys of any age and belong to different cultures and religions, come from varied social and ethnic backgrounds, may live in difficult circumstances, may be in need of special assistance and protection and may have experienced refuge and displacement, and must be respected as such.

6. **Development of indicators**: States parties and their statistical or other research institutions should develop indicators to measure the progress — or lack thereof — in recognition of the evolving capacities of a child to independently exercise her or his rights.

Working group 5: A new democratic dynamic: child participation in the public sphere

1. **Institutionalization of mechanisms**: States parties should, in consultation with children, institutionalize mechanisms for child participation at national, regional and municipal levels and ensure that these avoid tokenism and allow for inclusive participation, bearing in mind that children are not one homogenous group. Mechanisms for child participation should be sustainable and accountable to children and explain how their views are taken into account in decision-making. Mechanisms for child participation should be included in international and regional forums.

2. **Support for child participation**: National legislation should incorporate specific reference to article 12 of the Convention and guidelines should be adopted on modalities for child participation. Child-led associations should be given legal recognition. Regular research involving children should be conducted on the different aspects of the participation and indicators should be developed in order to evaluate the degree of child participation.

3. **Training and awareness-raising**: States parties should ensure that parents and professionals are trained and the general public is informed on how child participation can be encouraged and what the benefits of such participation are, both within the family and for the community. Authorities should be made aware of their responsibility to support mechanisms which facilitate the right of the child to be heard.

4. **Education**: Education is a key setting in which child participation should be supported, and should ensure active and continuous consultation with children through participatory mechanisms such as student councils and student representatives. Human rights and civic education should be fundamental components of school curricula and should be introduced in primary, secondary and tertiary education. Children must be informed about their rights in order to exercise them; schools should teach and practice human rights.

5. **Media and creative arts**: States parties are reminded of the importance of promoting the role of the mass media in accordance with article 17 of the Convention. Media should involve children and ensure that they are given opportunities to develop programmes, and should allocate specific broadcasting time for programmes designed by children. Arts should be used as a means of expression and participation in schools and in the community.

6. **Discriminated and marginalized groups of children**: The participation of discriminated and excluded groups of children should be ensured and proactive measures should be taken to promote the empowerment of children and to ensure equality of access to participation.

Working group 6: Children's voices in the family: overcoming resistance

1. **National strategy and complaints mechanism**: States parties should put in place a national holistic strategy and a child-friendly complaints mechanism for productive dialogue in the family, in order to develop parenting styles that respect the child's right to be heard. In this regard, sufficient resources should be provided, including for monitoring and evaluation, with particular attention paid to the girl child.

2. **Children with specific needs**: Undertake special measures to promote dialogue in the family by taking into consideration children with specific needs, such as children of divorced parents, children in alternative care institutions, migrant children, asylum-seekers and refugees, children with disabilities, children in conflict with the law and others, and by taking into consideration cultural diversity and respect for the cultural values that exist within the family that are not in contradiction with the Convention, and that strengthen economic, social and cultural rights.

3. **Awareness-raising activities**: Develop training modules and multimedia resources (including the media and creative arts) based on evidence-based studies to address priorities and to reach broader society. Provide human rights education for children, their parents and other caregivers so that they are aware of their rights and how to exercise them in the family context and to improve their understanding about the needs and rights of children. This should include targeted awareness-raising, including in the community.

4. **Human rights education and full implementation of article 12**: Provide human rights education for children and their parents and caregivers. The Committee should find a way to systematically call on States parties to fully implement article 12 and to reflect on children's participation in general, and on dialogue within families in particular.

5. **Research activities**: The Committee may wish to suggest that studies be carried out by research centres such as the UNICEF Innocenti Research Centre on the following issues:

(a) Dialogue in families, including the extended family, to reflect on the importance of such dialogue and identify modalities in assisting families to strengthen such communication;

(b) The importance and benefits of investing in sufficient time within the family, the costs of this investment and the expected social returns.

6. **Organization of work**: Encourage States parties to promote organization of work which enables necessary time for dialogue within the family.

C. Side events and information zones

99. During the lunch break of 8 October, a side event was held entitled "Looking towards the future: creating an international remedy for child rights violations — the need for a communications procedure under the Convention". The event was hosted by the Governments of Slovakia and Slovenia and the NGO Group for the Convention on the Rights of the Child and was chaired by Ms. Yanghee Lee, Chairperson of the Committee on the Rights of the Child. Distinguished speakers included Ms. Leda Koursoumba, Commissioner for Children's Rights, Cyprus, and Chair of the European Network of Ombudspersons for Children working group on access to international justice; Ms. Najat M'jid Maalla, Special Rapporteur on the sale of children, child prostitution and child pornography; and Mr. Peter Newell, representative of the NGO Group for the Convention on the Rights of the Child.

100. On 9 October, three books were launched. The African Child Policy Forum, an independent Pan-African policy advocacy centre based in Ethiopia, introduced *Child Poverty: African and International Perspectives*. The book presented findings and observations from some of the world's leading experts on child rights, poverty and development. World Vision Lebanon launched two books to commemorate the twentieth anniversary of the adoption of the Convention. The first, *From a Child's Point of View*, was written by 32 children and young people from Lebanon who had also provided the book's photographs. The second publication, *Twenty Years on: Children and Their Rights in Lebanon* looked at the state of children's rights in Lebanon since the adoption of the Convention.

101. During the two-day event, stalls were in place on the ground floor of the International Conference Centre Geneva, with a wide variety of information and publications on the rights of the child and on human rights from OHCHR, United Nations agencies, funds and programmes, and NGOs.

D. Reception and exhibitions

102. On 8 October 2009, an evening reception was hosted by the Government of Switzerland, the Canton of Geneva and the City of Geneva. At the reception, the International Organization of la Francophonie hosted the inauguration of a photography exhibition entitled "Petits d'Hommes", which featured photographs by Mr. Pierre-Jean Rey. The exhibition was on display to the general public through November 2009. Several high-level speakers delivered statements to mark the occasion, including representatives from the International Organization of la Francophonie and Mr. Ibrahim Salama, Chief of the Human Rights Treaties Branch of OHCHR.

103. Two additional exhibitions were on display as part of the commemorative ceremonies. The first was a photographic exhibition based on a project cooperatively undertaken by Terre des Hommes International Federation (Lausanne, Switzerland), Sanlaap (an NGO based in Kolkata, India) and documentary photographer Achinto Bhadra. The photos had been taken in collaboration with girls and women who had survived trafficking, rape or abandonment and had worked with counsellors and the photographer to identify the imaginary being into which they most wanted to transform as an expression of their sorrow, anger and hope.

104. The second exhibition was co-hosted by the International Labour Organization and the Geneva World Association. It displayed a collection of drawings that had been submitted by hundreds of children around the world who had been asked to express their understanding and feelings about child labour. Many of those children had been victims of child labour.

E. Closing plenary session

105. The closing plenary session was held during the afternoon of 9 October. All speakers on the podium wore baseball caps commemorating the twentieth anniversary of the adoption of the Convention. The closing session was opened by Ms. Yanghee Lee, Chairperson of the Committee on the Rights of the Child, who noted with appreciation the extremely engaging, provocative and productive discussions that had taken place on a wide range of issues in the two days.

106. Following the introductory comments of the Chairperson, the three thematic General Rapporteurs, Mr. Kotrane (Dignity), Ms. Aidoo (Development) and Ms. Ortiz (Dialogue) presented an overview of the discussions and recommendations reached in their respective working groups.

107. In his role as General Rapporteur for the event, Mr. Filali presented to the plenary session an initial summary of the working group discussions. He noted that in-depth discussions had taken place in the forums provided by the working groups, and that participants had identified and discussed best practices and achievements at the national level. Mr. Filali provided a preliminary analysis of the 36 recommendations that had emerged from the working groups, indicating the points on which there had been divergence, as well as those on which there had been general agreement including, inter alia, corporate social responsibility, enhanced engagement of the media, the full and active participation of children in the family and the public sphere, the development of national indicators to improve monitoring of implementation of the Convention, and the importance of prioritizing those and

other issues, despite the current economic crisis. Mr. Filali also distinguished between those recommendations that were general and those that were specific.

108. Ms. Kyung-wha Kang, Deputy High Commissioner for Human Rights, expressed her pleasure in addressing the participants following two intense, challenging and invigorating days. She noted the eventful commemorative activities that had taken place and the many informative and inspiring statements that had been delivered on the instrumental role of the Convention since its adoption, including in facilitating the fundamental change in the way that children were currently viewed as independent rights-holders. The Deputy High Commissioner recognized the full and active participation of child rights experts and advocates, academics and professionals, representatives of States parties, United Nations agencies, funds and programmes, NGOs, civil society, musical guests and filmmakers, and a special group of children and youth reporters, all of whom had been instrumental in ensuring that the event was a grand success.

109. The impressive work that had been undertaken in the working groups was recognized as resulting in the formulation of 36 action-oriented recommendations that could then be adapted in diverse contexts to address challenges to the realization of the rights of the child and improve implementation efforts.

110. The Deputy High Commissioner underlined that the event had been important for other reasons as well. For instance, she recognized that people working in their individual capacities to advance the rights of the child might occasionally feel isolated and that the challenges faced were extremely difficult, if not insurmountable. The event had enabled many individuals to meet face to face to discuss those and other challenges, to consider alternative perspectives and to develop concrete measures to promote necessary changes. In doing so, it also provided a reminder to all participants that there many people were working on similar objectives all over the world. The Deputy High Commissioner urged participants to continue working towards effective implementation of the Convention and the full enjoyment of those rights by all children, including through the application of strong commitment, sufficient political will and adequate resources.

111. The Deputy High Commissioner also acknowledged the Committee on the Rights of the Child for its support for the event, and in particular Mr. Jean Zermatten, for his vision and commitment to ensuring that an appropriate and fitting celebration would be held for the anniversary of the adoption of the Convention. Gratitude was expressed to the team of individuals in the OHCHR secretariat who had worked for many months to ensure that the event would be a success.

112. In bringing the meeting to a close, the Chairperson acknowledged the positive and enthusiastic engagement of the participants, including the children, that had resulted in the formulation of a strong set of recommendations. She expressed the appreciation of the Committee to Mr. Zermatten for his commitment to a celebratory and substantive event, and to the staff of OHCHR for their dedication to the preparations, planning and execution of the event. Finally, the Chairperson emphasized that the work of the Committee and effective realization of the rights of the child would require the ongoing support of States parties, and other partners, including United Nations partners, NGOs and civil society, national human rights institutions, experts, child rights advocates and professionals.

113. In keeping with the theme of the event, the last word was given to six youth participants: Daphnika (Haiti), Romina (Plurinational State of Bolivia), Dinesh (Sri Lanka), Cara (Canada), Simone (Netherlands) and Frederika (Sierra Leone). The speakers noted that they had arrived from different countries with diverse interests and needs, but had also found shared commonalities and concerns. They expressed their thanks to the participants for creating an environment in which they had felt respected, listened to, understood and treated as equals. Two of the young participations, Cara and Simone, noted that the discussions had sometimes been extremely serious and intense. To counter that, they led the participants in an exercise of making faces and funny noises and reminded them that everyone was a child at heart. They also asked participants to remember that fact in moments when they were called upon to take decisive action to protect and promote the rights of children at the national level.

114. Following the presentation by the young participants, Cara and Simone declared closed the event to commemorate the twentieth anniversary of the adoption of the Convention on the Rights of the Child.

115. A monograph containing the documents from the meeting will be published in 2010.

IV. Child participation

A. Child participants and youth reporters

116. The effective participation of children was central to the success of the celebration. Due to the efforts of Plan International and World Vision, a diverse group of dynamic children and youth reporters ranging in ages from 15 to 23 years travelled to Geneva to attend the event from a variety of countries including Bolivia (Plurinational State of), Canada, Colombia, Dominican Republic, El Salvador, Haiti, India, Lebanon, the Netherlands, Norway, Pakistan, Senegal, Sierra Leone, Sri Lanka and Uganda. The participation of the children and youth ensured that their voices and viewpoints and those of their peers were heard and considered during the discussions. Their participation was facilitated throughout the event, including through specific child-organized activities, such as workshops, exhibitions, dramatic arts and video, and as participants in the working groups. Those activities were undertaken with enthusiasm, intelligence and clarity.

117. Among those youth, a group of youth reporters documented and reported on the anniversary event through photography, video and interviews. Each youth reporter was identified with a badge marked "Convention on the Rights of the Child Press". The youth reporters used various forms of media, including digital photography, video and voice recordings to document the activities from their individual perspectives.

118. Each young person was accompanied by a chaperon from their respective country of origin and a protection team. Participants were requested to strictly observe a set of standards related to child protection in order to create an atmosphere that fully enabled the active and meaningful participation of the young people.

B. Recommendations

119. Over the two days, the children and youth participants had formulated a number of recommendations that they wished to communicate to the Committee and to the other participants of the event regarding ways to increase awareness among adults and children of the Convention and the realities of children's lives, the recommendations included the following:

(a) Use the mass media to raise awareness and educate children and adults (especially parents) on child rights;

(b) Develop solidarity programmes that have the potential to reach the most vulnerable children;

(c) Undertake legal measures to ensure that children's rights are respected and that child participation is made obligatory in all decision-making processes that concern them;

(d) Ensure that information on the Convention is available and accessible to all people in a clear and understandable manner;

(e) Create means of communication to cut across different races, cultures, religions and ethnic groups;

(f) Provide special support for all children without parental care, children with disabilities and any children facing difficult circumstances;

(g) Provide parents with the support they need to raise and respect their children;

(h) Promote child organizatio..[3].

Annex III

General comment No. 11 (2009)
Indigenous children and their rights under the Convention

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I. Introduction

1. In the preamble of the Convention on the Rights of the Child, States parties take "due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child". While all the rights contained in the Convention apply to all children, whether indigenous or not, the Convention on the Rights of the Child was the first core human rights treaty to include specific references to indigenous children in a number of provisions.

2. Article 30 of the Convention states that "in those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language".

3. Furthermore, article 29 of the Convention provides that education of the child shall be directed to "the preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin".

4. Article 17 of the Convention also makes specific mention as States parties shall encourage the mass media to "have particular regard for the linguistic needs of the child who belongs to a minority group or who is indigenous".

5. The specific references to indigenous children in the Convention are indicative of the recognition that they require special measures in order to fully enjoy their rights. The Committee on the Rights of the Child has consistently taken into account the situation of indigenous children in its reviews of periodic reports of States parties to the Convention. The Committee has observed that indigenous children face significant challenges in exercising their rights and has issued specific recommendations to this effect in its concluding observations. Indigenous children continue to experience serious discrimination contrary to article 2 of the Convention in a range of areas, including in their access to health care and education, which has prompted the need to adopt the present general comment.

6. In addition to the Convention on the Rights of the Child, various human rights treaties have played an important role in addressing the situation of indigenous children and their right not to be discriminated against, namely, the International Convention on the Elimination of All Forms of Racial Discrimination (1965), the International Covenant on Civil and Political Rights (1966), and the International Covenant on Economic, Social and Cultural Rights (1966).

7. The International Labour Organization Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries, 1989 contains provisions which advance the rights of indigenous peoples and specifically highlights the rights of indigenous children in the area of education.

8. In 2001, the United Nations Commission on Human Rights appointed a Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples, subsequently confirmed by the Human Rights Council in 2007. The Council has requested the Special Rapporteur to pay particular attention to the situation of indigenous children and several recommendations included in his annual and mission reports have focused on their specific situation.

9. In 2003, the United Nations Permanent Forum on Indigenous Issues held its second session on the theme "Indigenous children and youth". The same year, the Committee on the Rights of the Child held its annual day of general discussion on the rights of indigenous children and adopted specific recommendations aimed primarily at States parties but also United Nations entities, human rights mechanisms, civil society, donors, the World Bank and regional development banks.

10. In its resolution 61/295, the General Assembly adopted the United Nations Declaration on the Rights of Indigenous Peoples, which provides important guidance on the rights of indigenous peoples, including specific reference to the rights of indigenous children in a number of areas.

II. Objectives and structure

11. The present general comment on the rights of indigenous children as provided for by the Convention on the Rights of the Child draws on the legal developments and initiatives outlined above.

12. The primary objective of the general comment is to provide States with guidance on how to implement their obligations under the Convention with respect to indigenous children. The Committee bases this general comment on its experience in interpreting the provisions of the Convention in relation to indigenous children. Furthermore, the general comment is based upon the recommendations adopted following the day of general discussion on indigenous children in 2003 and reflects a consultative process with relevant stakeholders, including indigenous children themselves.

13. The present general comment is aimed at exploring the specific challenges which impede indigenous children from being able to fully enjoy their rights, and highlights special measures that States are required to undertake in order to guarantee the effective exercise of indigenous children's rights. Furthermore, through the general comment, the Committee seeks to encourage good practices and highlight positive approaches in the practical implementation of rights for indigenous children.

14. Article 30 of the Convention and the right to the enjoyment of culture, religion and language are key elements in the present general comment; however the aim is to explore the various provisions which require particular attention in their implementation in relation to indigenous children. Particular emphasis is placed on the interrelationship between relevant provisions, notably with respect to the general principles of the Convention as identified by the Committee, namely, non-discrimination, the best interests of the child, the right to life, survival and development and the right to be heard.

15. The Committee notes that the Convention contains references to both minority and indigenous children. Certain references in the general comment may be relevant for children of minority groups and the Committee may decide in the future to prepare a general comment specifically on the rights of children belonging to minority groups.

III. Article 30 and general obligations of States

16. The Committee recalls the close linkage between article 30 of the Convention on the Rights of the Child and article 27 of the International Covenant on Civil and Political Rights. Both articles provide for the right of the child, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion or to use his or her own language. The right established is conceived as being both individual and collective and is an important recognition of the collective traditions and values in indigenous cultures. The Committee notes that the right to exercise cultural rights among indigenous peoples may be closely associated with the use of traditional territory and the use of its resources.[1]

17. Although article 30 is expressed in negative terms, it nevertheless recognizes the existence of a "right" and requires that it "shall not be denied". Consequently, a State party is under an obligation to ensure that the existence and the exercise of this right are protected against their denial or violation. The Committee concurs with the Human Rights Committee that positive measures of protection are required, not only against the acts of the State party itself, whether through its legislative, judicial or administrative authorities, but also against the acts of other persons within the State party.[2]

18. In this context, the Committee also supports the Committee on the Elimination of Racial Discrimination in its call upon States parties to recognize and respect indigenous distinct cultures, history, language and way of life as an enrichment of the State's cultural identity and to promote its preservation.[3]

19. Self-identification as indigenous is the fundamental criterion for determining the presence of indigenous peoples.[4] There is no requirement for States parties to officially recognize indigenous peoples in order for them to exercise their rights.

20. Based on its reviews of reports from States parties, the Committee on the Rights of the Child has observed that in implementing their obligations under the Convention many States parties give insufficient attention to the rights of indigenous children and to the promotion of their development. The Committee considers that special measures, through legislation and policies for the protection of indigenous children, should be undertaken in consultation with the communities concerned[5] and with the participation of children in the consultation process, as provided for by article 12 of the Convention. The Committee considers that consultations should be actively carried out by authorities or other entities of States

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[1] Human Rights Committee, general comment No. 23 (1994) on the rights of minorities (art. 27), paras. 3.2 and 7. Recommendation of the Committee on the Rights of the Child based on suggestions arising from the day of general discussion on the rights of indigenous children; see the Committee's report on the thirty-fourth session (CRC/C/133), general recommendations (para. 624, subpara. 4).

[2] Human Rights Committee, general comment No. 23 (1994) on the rights of minorities (art. 27), para. 6.1.

[3] Committee on the Elimination of Racial Discrimination, general recommendation No. 23 (1997) on indigenous peoples, para. 4 (a).

[4] ILO Convention concerning Indigenous and Tribal Peoples in Independent Countries, 1989 (No. 169), art. 1, para. 2.

[5] Ibid., arts. 2, 6 and 27.

parties in a manner that is culturally appropriate, guarantees the availability of information to all parties and ensures interactive communication and dialogue.

21. The Committee urges States parties to ensure that adequate attention is given to article 30 in the implementation of the Convention. States parties should provide detailed information in their periodic reports under the Convention on the special measures undertaken in order to guarantee that indigenous children can enjoy the rights provided in article 30.

22. The Committee underlines that the cultural practices referred to in article 30 of the Convention must be exercised in accordance with other provisions of the Convention and under no circumstances may be justified if deemed prejudicial to the child's dignity, health and development.[6] Should harmful practices, inter alia early marriages and female genital mutilation, be present the State party should work together with indigenous communities to ensure their eradication. The Committee strongly urges States parties to develop and implement awareness-raising campaigns, education programmes and legislation aimed at changing attitudes and address gender roles and stereotypes that contribute to harmful practices.[7]

IV. General principles (arts. 2, 3, 6 and 12 of the Convention)

Non-discrimination

23. Article 2 sets out the obligation of States parties to ensure the rights of each child within their jurisdiction without discrimination of any kind. Non-discrimination has been identified by the Committee as a general principle of fundamental importance for the implementation of all the rights enshrined in the Convention. Indigenous children have the inalienable right to be free from discrimination. In order to effectively protect children from discrimination, it is a State party obligation to ensure that the principle of non-discrimination is reflected in all domestic legislation and can be directly applied and appropriately monitored and enforced through judicial and administrative bodies. Effective remedies should be timely and accessible. The Committee emphasizes that the obligations of the State party extend not only to the public but also to the private sector.

24. As previously stated in the Committee's general comment No. 5 (2003) on general measures of implementation for the Convention on the Rights of the Child, the non-discrimination obligation requires States actively to identify individual children and groups of children the recognition and realization of whose rights may demand special measures. For example, the Committee highlights, in particular, the need for data collection to be disaggregated to enable discrimination or potential discrimination to be identified. Addressing discrimination may furthermore require changes in legislation, administration and resource allocation, as well as educational measures to change attitudes.[8]

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[6] United Nations Children's Fund, "Ensuring the rights of indigenous children", Innocenti Digest No. 11, 2004, p. 7.

[7] Committee on the Rights of the Child, general comment No. 4 (2003) on adolescent health and development in the context of the Convention on the Rights of the Child, para. 24.

[8] Committee on the Rights of the Child, general comment No. 5 (2003) on general measures of implementation, para. 12.

25. The Committee, through its extensive review of State party reports, notes that indigenous children are among those children who require positive measures in order to eliminate conditions that cause discrimination and to ensure their enjoyment of the rights of the Convention on equal level with other children. In particular, States parties are urged to consider the application of special measures in order to ensure that indigenous children have access to culturally appropriate services in the areas of health, nutrition, education, recreation and sports, social services, housing, sanitation and juvenile justice.[9]

26. Among the positive measures required to be undertaken by States parties is disaggregated data collection and the development of indicators for the purposes of identifying existing and potential areas of discrimination against indigenous children. The identification of gaps and barriers to the enjoyment of the rights of indigenous children is essential in order to implement appropriate positive measures through legislation, resource allocation, policies and programmes.[10]

27. States parties should ensure that public information and educational measures are taken to address discrimination against indigenous children. The obligation under article 2 in conjunction with articles 17; 29, paragraph 1 (d); and 30 of the Convention requires States to develop public campaigns, dissemination material and educational curricula, both in schools and for professionals, focused on the rights of indigenous children and the elimination of discriminatory attitudes and practices, including racism. Furthermore, States parties should provide meaningful opportunities for indigenous and non-indigenous children to understand and respect different cultures, religions, and languages.

28. In their periodic reports to the Committee, States parties should identify measures and programmes undertaken to address discrimination against indigenous children in relation to the Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.[11]

29. In the design of special measures, States parties should consider the needs of indigenous children who may face multiple facets of discrimination and also take into account the different situations of indigenous children in rural and urban settings. Particular attention should be given to girls in order to ensure that they enjoy their rights on an equal basis as boys. States parties should furthermore ensure that special measures address the rights of indigenous children with disabilities.[12]

Best interests of the child

30. The application of the principle of the best interests of the child to indigenous children requires particular attention. The Committee notes that the best interests of the child is conceived both as a collective and individual right, and that the application of this right to indigenous children as a group requires consideration of how the right relates to collective cultural rights. Indigenous children have not

[9] Recommendation of the Committee on the Rights of the Child based on suggestions arising from the day of general discussion on the rights of indigenous children. See CRC/C/133, recommendations on non-discrimination (para. 624, subpara. 9).

[10] Ibid., recommendations on information, data and statistics (para. 624, subpara. 6).

[11] Ibid., recommendations on non-discrimination (para. 624, subpara. 12).

[12] Convention on the Rights of Persons with Disabilities, preamble. United Nations Declaration on the Rights of Indigenous Peoples, General Assembly resolution 61/295, arts. 21 and 22.

always received the distinct consideration they deserve. In some cases, their particular situation has been obscured by other issues of broader concern to indigenous peoples (including land rights and political representation).[13] In the case of children, the best interests of the child cannot be neglected or violated in preference for the best interests of the group.

31. When State authorities including legislative bodies seek to assess the best interests of an indigenous child, they should consider the cultural rights of the indigenous child and his or her need to exercise such rights collectively with members of their group. As regards legislation, policies and programmes that affect indigenous children in general, the indigenous community should be consulted and given an opportunity to participate in the process on how the best interests of indigenous children in general can be decided in a culturally sensitive way. Such consultations should, to the extent possible, include meaningful participation of indigenous children.

32. The Committee considers that there may be a distinction between the best interests of the individual child and the best interests of children as a group. In decisions regarding one individual child, typically a court decision or an administrative decision, it is the best interests of the specific child that is the primary concern. However, considering the collective cultural rights of the child is part of determining the child's best interests.

33. The principle of the best interests of the child requires States to undertake active measures throughout their legislative, administrative and judicial systems that would systematically apply the principle by considering the implication of their decisions and actions on children's rights and interests.[14] In order to effectively guarantee the rights of indigenous children such measures would include training and awareness-raising among relevant professional categories of the importance of considering collective cultural rights in conjunction with the determination of the best interests of the child.

The right to life, survival and development

34. The Committee notes with concern that disproportionately high numbers of indigenous children live in extreme poverty, a condition which has a negative impact on their survival and development. The Committee is furthermore concerned over the high infant and child mortality rates as well as malnutrition and diseases among indigenous children. Article 4 of the Convention obliges States parties to address economic, social and cultural rights to the maximum extent of their available resources and, where needed, with international cooperation. Articles 6 and 27 provide for the right of children to survival and development as well as an adequate standard of living. States should assist parents and others responsible for the indigenous child to implement these rights by providing culturally appropriate material assistance and support programmes, particularly with regard to nutrition, clothing and housing. The Committee stresses the need for States parties to take special measures to ensure that indigenous children enjoy the right to an adequate

[13] United Nations Children's Fund, "Ensuring the rights of indigenous children", Innocenti Digest No. 11, 2004, p. 1.

[14] Committee on the Rights of the Child, general comment No. 5 (2003) on general measures of implementation, para. 12.

standard of living and that these measures, together with progress indicators, be developed in partnership with indigenous peoples, including children.

35. The Committee reiterates its understanding of development of the child as set out in its general comment No. 5, as a "holistic concept, embracing the child's physical, mental, spiritual, moral, psychological and social development".[15] The preamble to the Convention stresses the importance of the traditions and cultural values of each person, particularly with reference to the protection and harmonious development of the child. In the case of indigenous children whose communities retain a traditional lifestyle, the use of traditional land is of significant importance to their development and enjoyment of culture.[16] States parties should closely consider the cultural significance of traditional land and the quality of the natural environment while ensuring the children's right to life, survival and development to the maximum extent possible.

36. The Committee reaffirms the importance of the Millennium Development Goals and calls on States to engage with indigenous peoples, including children, to ensure the full realization of the Goals with respect to indigenous children.

Respect for the views of the child

37. The Committee considers that, in relation to article 12, there is a distinction between the right of the child as an individual to express his or her opinion and the right to be heard collectively, which allows children as a group to be involved in consultations on matters involving them.

38. With regard to the individual indigenous child, the State party has the obligation to respect the child's right to express his or her view in all matters affecting him or her, directly or through a representative, and to give due weight to this opinion in accordance with the age and maturity of the child. The obligation is to be respected in any judicial or administrative proceeding. Taking into account the obstacles which prevent indigenous children from exercising this right, the State party should provide an environment that encourages the free opinion of the child. The right to be heard includes the right to representation, culturally appropriate interpretation and also the right not to express one's opinion.

39. When the right is applied to indigenous children as a group, the State party plays an important role in promoting their participation and should ensure that they are consulted on all matters affecting them. The State party should design special strategies to guarantee that their participation is effective. The State party should ensure that this right is applied in particular in the school environment, alternative care settings and in the community in general. The Committee recommends that States parties work closely with indigenous children and their communities to develop, implement and evaluate programmes, policies and strategies for implementation of the Convention.

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[15] Ibid.

[16] United Nations Children's Fund, "Ensuring the rights of indigenous children", Innocenti Digest No. 11, 2004, p. 8.

V. Civil rights and freedoms (arts. 7, 8, 13-17 and 37 (a) of the Convention)

Access to information

40. The Committee underlines the importance that the media have particular regard for the linguistic needs of indigenous children, in accordance with articles 17 (d) and 30 of the Convention. The Committee encourages States parties to support indigenous children to have access to media in their own languages. The Committee underlines the right of indigenous children to access information, including in their own languages, in order for them to effectively exercise their right to be heard.

Birth registration, nationality and identity

41. States parties are obliged to ensure that all children are registered immediately after birth and that they acquire a nationality. Birth registration should be free and universally accessible. The Committee is concerned that indigenous children, to a greater extent than non-indigenous children, remain without birth registration and at a higher risk of being stateless.

42. Therefore, States parties should take special measures in order to ensure that indigenous children, including those living in remote areas, are duly registered. Such special measures, to be agreed following consultation with the communities concerned, may include mobile units, periodic birth registration campaigns or the designation of birth registration offices within indigenous communities to ensure accessibility.

43. States parties should ensure that indigenous communities are informed about the importance of birth registration and of the negative implications of its absence on the enjoyment of other rights for non-registered children. States parties should ensure that information to this effect is available to indigenous communities in their own languages and that public awareness campaigns are undertaken in consultation with the communities concerned.[17]

44. Furthermore, taking into account articles 8 and 30 of the Convention, States parties should ensure that indigenous children may receive indigenous names of their parents' choice in accordance with their cultural traditions and the right to preserve their identity. States parties should put in place national legislation that provides indigenous parents with the possibility of selecting the name of their preference for their children.

45. The Committee draws the attention of States to article 8, paragraph 2, of the Convention, which affirms that a child who has been illegally deprived of some or all of the elements of his or her identity shall be provided with appropriate assistance and protection in order to re-establish speedily his or her identity. The Committee encourages States parties to bear in mind article 8 of the United Nations Declaration on the Rights of Indigenous Peoples, which sets out that effective mechanisms should be provided for prevention of, and redress for, any action which deprives indigenous peoples, including children, of their ethnic identities.

[17] United Nations Children's Fund, "Ensuring the rights of indigenous children", Innocenti Digest No. 11, 2004, p. 9.

VI. Family environment and alternative care (arts. 5, 18 (paras. 1 and 2), 9-11, 19-21, 25, 27 (para. 4) and 39 of the Convention)

46. Article 5 of the Convention requires States parties to respect the rights, responsibilities and duties of parents or, where applicable, the members of the extended family or community to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the Convention. States parties should ensure effective measures are implemented to safeguard the integrity of indigenous families and communities by assisting them in their child-rearing responsibilities in accordance with articles 3, 5, 18, 25 and 27 (3) of the Convention.[18]

47. States parties should, in cooperation with indigenous families and communities, collect data on the family situation of indigenous children, including children in foster care and adoption processes. Such information should be used to design policies relating to the family environment and alternative care of indigenous children in a culturally sensitive way. Maintaining the best interests of the child and the integrity of indigenous families and communities should be primary considerations in development, social services, health and education programmes affecting indigenous children.[19]

48. Furthermore, States should always ensure that the principle of the best interests of the child is the paramount consideration in any alternative care placement of indigenous children and, in accordance with article 20, paragraph 3, of the Convention, pay due regard to the desirability of continuity in the child's upbringing and to the child's ethnic, religious, cultural and linguistic background. In States parties where indigenous children are overrepresented among children separated from their family environment, specially targeted policy measures should be developed in consultation with indigenous communities in order to reduce the number of indigenous children in alternative care and prevent the loss of their cultural identity. Specifically, if an indigenous child is placed in care outside their community, the State party should take special measures to ensure that the child can maintain his or her cultural identity.

VII. Basic health and welfare (arts. 6, 18 (para. 3), 23, 24, 26, 27 (paras. 1-3) of the Convention)

49. States parties shall ensure that all children enjoy the highest attainable standard of health and have access to health-care services. Indigenous children frequently suffer poorer health than non-indigenous children due to, inter alia, inferior or inaccessible health services. The Committee notes with concern, on the basis of its reviews of States parties' reports, that this applies both to developing and developed countries.

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[18] Recommendations of the Committee on the Rights of the Child based on suggestions arising from the day of general discussion on the rights of indigenous children. See CRC/C/133, recommendations on family environment (para. 624, subpara. 17).

[19] Ibid.

50. The Committee urges States parties to take special measures to ensure that indigenous children are not discriminated against with respect to enjoying the highest attainable standard of health. The Committee is concerned over the high rates of mortality among indigenous children and notes that States parties have a positive duty to ensure that indigenous children have equal access to health services and to combat malnutrition as well as infant, child and maternal mortality.

51. States parties should take the necessary steps to ensure ease of access to health-care services for indigenous children. Health services should to the extent possible be community based and planned and administered in cooperation with the peoples concerned.[20] Special consideration should be given to ensure that health-care services are culturally sensitive and that information about these is available in indigenous languages. Particular attention should be given to ensuring access to health care for indigenous peoples who reside in rural and remote areas or in areas of armed conflict or who are migrant workers, refugees or displaced. States parties should furthermore pay special attention to the needs of indigenous children with disabilities and ensure that relevant programmes and policies are culturally sensitive.[21]

52. Health-care workers and medical staff from indigenous communities play an important role by serving as a bridge between traditional medicine and conventional medical services and preference should be given to employment of local indigenous community workers.[22] States parties should encourage the role of these workers by providing them with the necessary means and training in order to enable conventional medicine to be used by indigenous communities in a way that is mindful of their culture and traditions. In this context, the Committee recalls article 25, paragraph 2, of ILO Convention No. 169 on Indigenous and Tribal Peoples and articles 24 and 31 of the United Nations Declaration on the Rights of Indigenous Peoples on the right of indigenous peoples to their traditional medicines.

53. States should take all reasonable measures to ensure that indigenous children, families and their communities receive information and education on issues relating to health and preventive care such as nutrition, breastfeeding, pre- and postnatal care, child and adolescent health, vaccinations, communicable diseases (in particular HIV/AIDS and tuberculosis), hygiene, environmental sanitation and the dangers of pesticides and herbicides.

54. Regarding adolescent health, States parties should consider specific strategies in order to provide indigenous adolescents with access to sexual and reproductive information and services, including on family planning and contraceptives, the dangers of early pregnancy, the prevention of HIV/AIDS and the prevention and treatment of sexually transmitted infections. The Committee recommends States parties to take into account its general comments No. 3 on HIV/AIDS and the rights of the child (2003) and No. 4 on adolescent health (2003) for this purpose.

55. In certain States parties suicide rates for indigenous children are significantly higher than for non-indigenous children. Under such circumstances, States parties should design and implement a policy for preventive measures and ensure that

[20] ILO Convention No. 169 concerning Indigenous and Tribal Peoples, art. 25, paras. 1 and 2.

[21] Committee on the Rights of the Child, general comment No. 9 (2006) on the rights of children with disabilities, para. 80.

[22] ILO Convention No. 169 concerning Indigenous and Tribal Peoples, art. 25, para. 3.

additional financial and human resources are allocated to mental health care for indigenous children in a culturally appropriate manner, following consultation with the affected community. In order to analyse and combat the root causes, the State party should establish and maintain a dialogue with the indigenous community.

VIII. Education (arts. 28, 29 and 31 of the Convention)

56. Article 29 of the Convention sets out that the education for all children should be directed to, among other objectives, the development of respect for the child's cultural identity, language and values and for civilizations different from his or her own. Further objectives include the preparation of the child for responsible life in a free society, in the spirit of understanding peace, tolerance, equality of sexes and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin. The aims of education apply to education for all children and States should ensure that these are adequately reflected in the curricula, content of materials, teaching methods and policies. States are encouraged to refer to the Committee's general comment No. 1 (2001) on the aims of education for further guidance.

57. The education of indigenous children contributes both to their individual and community development as well as to their participation in the wider society. Quality education enables indigenous children to exercise and enjoy economic, social and cultural rights for their personal benefit as well as for the benefit of their community. Furthermore, it strengthens children's ability to exercise their civil rights in order to influence political policy processes for improved protection of human rights. Thus, the implementation of the right to education of indigenous children is an essential means of achieving individual empowerment and self-determination of indigenous peoples.

58. In order to ensure that the aims of education are in line with the Convention, States parties are responsible for protecting children from all forms of discrimination as set out in article 2 of the Convention and for actively combating racism. This duty is particularly pertinent in relation to indigenous children. In order to effectively implement this obligation, States parties should ensure that the curricula, educational materials and history textbooks provide a fair, accurate and informative portrayal of the societies and cultures of indigenous peoples.[23] Discriminatory practices, such as restrictions on the use of cultural and traditional dress, should be avoided in the school setting.

59. Article 28 of the Convention sets out that States parties shall ensure that primary education is compulsory and available to all children on the basis of equal opportunity. States parties are encouraged to make secondary and vocational education available and accessible to every child. However, in practice, indigenous children are less likely to be enrolled in school and continue to have higher dropout and illiteracy rates than non-indigenous children. Most indigenous children have reduced access to education due to a variety of factors including insufficient educational facilities and teachers, direct or indirect costs for education as well as a lack of culturally adjusted and bilingual curricula in accordance with article 30.

[23] ILO Convention No. 169 concerning Indigenous and Tribal Peoples, art. 31; United Nations Declaration on the Rights of Indigenous Peoples, General Assembly resolution 61/295, art. 15.

Furthermore, indigenous children are frequently confronted with discrimination and racism in the school setting.

60. In order for indigenous children to enjoy their right to education on equal footing with non-indigenous children, States parties should ensure a range of special measures to this effect. States parties should allocate targeted financial, material and human resources in order to implement policies and programmes which specifically seek to improve the access to education for indigenous children. As established by article 27 of ILO Convention No. 169, education programmes and services should be developed and implemented in cooperation with the peoples concerned to address their specific needs. Furthermore, governments should recognize the right of indigenous peoples to establish their own educational institutions and facilities, provided that such institutions meet minimum standards established by the competent authority in consultation with these peoples.[24] States should undertake all reasonable efforts to ensure that indigenous communities are aware of the value and importance of education and of the significance of community support for school enrolment.

61. States parties should ensure that school facilities are easily accessible where indigenous children live. If required, States parties should support the use of media, such as radio broadcasts and long-distance education programmes (Internet-based) for educational purposes and establish mobile schools for indigenous peoples who practice nomadic traditions. The school cycle should take into account and seek to adjust to cultural practices as well as agricultural seasons and ceremonial periods. States parties should only establish boarding schools away from indigenous communities when necessary as this may be a disincentive for the enrolment of indigenous children, especially girls. Boarding schools should comply with culturally sensitive standards and be monitored on a regular basis. Attempts should also be made to ensure that indigenous children living outside their communities have access to education in a manner which respects their culture, languages and traditions.

62. Article 30 of the Convention establishes the right of the indigenous child to use his or her own language. In order to implement this right, education in the child's own language is essential. Article 28 of ILO Convention No. 169 affirms that indigenous children shall be taught to read and write in their own language besides being accorded the opportunity to attain fluency in the official languages of the country. Bilingual and intercultural curricula are important criteria for the education of indigenous children. Teachers of indigenous children should to the extent possible be recruited from within indigenous communities and given adequate support and training.

63. With reference to article 31 of the Convention, the Committee notes the many positive benefits of participation in sports, traditional games, physical education and recreational activities and calls on States parties to ensure that indigenous children enjoy the effective exercise of these rights.

[24] ILO Convention No. 169 concerning Indigenous and Tribal Peoples, art. 27, para. 3.

IX. Special protection measures (arts. 22, 30, 38, 39, 40, 37 (b)-(d) and 32-36 of the Convention)

A. Children in armed conflict and refugee children

64. Through its periodic reviews of States parties' reports, the Committee has concluded that indigenous children are particularly vulnerable in situations of armed conflict or in situations of internal unrest. Indigenous communities often reside in areas which are coveted for their natural resources or that, because of remoteness, serve as a base for non-State armed groups. In other situations, indigenous communities reside in the vicinity of borders or frontiers which are disputed by States.[25]

65. Indigenous children in such circumstances have been, and continue to face risks of being, victims of attacks against their communities, resulting in death, rape and torture, displacement, enforced disappearances, the witnessing of atrocities and the separation from parents and community. Targeting of schools by armed forces and groups has denied indigenous children access to education. Furthermore, indigenous children have been recruited by armed forces and groups and forced to commit atrocities, sometimes even against their own communities.

66. Article 38 of the Convention obliges States parties to ensure respect for the rules of humanitarian law, to protect the civilian population and to take care of children who are affected by armed conflict. States parties should pay particular attention to the risks indigenous children face in hostilities and take maximum preventive measures in consultation with the communities concerned. Military activities on indigenous territories should be avoided to the extent possible; the Committee recalls article 30 of the United Nations Declaration on the Rights of Indigenous Peoples in this regard. States parties should not require military conscription of indigenous children under the age of 18 years. States parties are encouraged to ratify and implement the Optional Protocol on the involvement of children in armed conflict.

67. Indigenous children who have been victims of recruitment in armed conflict should be provided with the necessary support services for reintegration into their families and communities. Consistent with article 39 of the Convention, States parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of any form of exploitation, abuse, torture or any other form of cruel, inhuman or degrading treatment or punishment or armed conflicts. In the case of indigenous children, this should be done giving due consideration to the child's cultural and linguistic background.

68. Indigenous children who have been displaced or become refugees should be given special attention and humanitarian assistance in a culturally sensitive manner. Safe return and restitution of collective and individual property should be promoted.

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[25] United Nations Children's Fund, "Ensuring the rights of indigenous children", Innocenti Digest No. 11, 2004, p. 13.

B. Economic exploitation

69. Article 32 of the Convention provides that all children should be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development. In addition, the ILO Convention concerning Minimum Age for Admission to Employment, 1973 (No. 138) and Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (No. 182) set parameters for distinguishing child labour that needs abolition, on the one hand, and acceptable work done by children, including such activities that allow indigenous children to acquire livelihood skills, identity and culture, on the other. Child labour is work that deprives children of their childhood, their potential and dignity and that is harmful to their physical and mental development.[26]

70. Provisions in the Convention on the Rights of the Child refer to the use of children in illicit production and trafficking of drugs (art. 33), sexual exploitation (art. 34), trafficking in children (art. 35) and children in armed conflicts (art. 38). These provisions are closely related to the definition of the worst forms of child labour under ILO Convention No. 182. The Committee notes with grave concern that indigenous children are disproportionately affected by poverty and at particular risk of being used in child labour, especially its worst forms, such as slavery, bonded labour, child trafficking, including for domestic work, use in armed conflict, prostitution and hazardous work.

71. The prevention of exploitative child labour among indigenous children (as in the case of all other children) requires a rights-based approach to child labour and is closely linked to the promotion of education. For the effective elimination of exploitative child labour among indigenous communities, States parties must identify the existing barriers to education and the specific rights and needs of indigenous children with respect to school education and vocational training. This requires that special efforts be taken to maintain a dialogue with indigenous communities and parents regarding the importance and benefits of education. Measures to combat exploitative child labour furthermore require analysis of the structural root causes of child exploitation, data collection and the design and implementation of prevention programmes, with adequate allocation of financial and human resources by the State party, to be carried out in consultation with indigenous communities and children.

C. Sexual exploitation and trafficking

72. Articles 34 and 35 of the Convention, with consideration to the provisions of article 20, call on States to ensure that children are protected against sexual exploitation and abuse as well as against the abduction, sale or traffic of children for any purposes. The Committee is concerned that indigenous children whose communities are affected by poverty and urban migration are at a high risk of becoming victims of sexual exploitation and trafficking. Young girls, in particular those not registered at birth, are especially vulnerable. In order to improve the protection of all children, including indigenous, States parties are encouraged to

[26] ILO, *Guidelines for Combating Child Labour among Indigenous and Tribal Peoples*, 2006, p. 9.

ratify and implement the Optional Protocol on the sale of children, child prostitution and child pornography.

73. States should, in consultation with indigenous communities, including children, design preventive measures and allocate targeted financial and human resources for their implementation. States should base preventive measures on studies which include documentation of the patterns of violations and analysis of root causes.

D. Juvenile justice

74. Articles 37 and 40 of the Convention ensure the rights of children within, and in interaction with, State judicial systems. The Committee notes with concern that incarceration of indigenous children is often disproportionately high and in some instances may be attributed to systemic discrimination from within the justice system and/or society.[27] To address these high rates of incarceration, the Committee draws the attention of States parties to article 40, paragraph 3 (b), of the Convention requiring States to undertake measures to deal with children alleged as, accused of, or recognized as having infringed the penal law without resorting to judicial proceedings, whenever appropriate. The Committee, in its general comment No. 10 (2007) on children's rights in juvenile justice (para. 23) and in its concluding observations, has consistently affirmed that the arrest, detention or imprisonment of a child may be used only as a measure of last resort.

75. States parties are encouraged to take all appropriate measures to support indigenous peoples to design and implement traditional restorative justice systems as long as those programmes are in accordance with the rights set out in the Convention, notably with the best interests of the child.[28] The Committee draws the attention of States parties to the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines), which encourage the development of community programmes for the prevention of juvenile delinquency.[29] States parties should seek to support, in consultation with indigenous peoples, the development of community-based policies, programmes and services which consider the needs and culture of indigenous children, their families and communities. States should provide adequate resources to juvenile justice systems, including those developed and implemented by indigenous peoples.

76. States parties are reminded that pursuant to article 12 of the Convention, all children should have an opportunity to be heard in any judicial or criminal proceedings affecting them, either directly or through a representative. In the case of indigenous children, States parties should adopt measures to ensure that an interpreter is provided free of charge if required and that the child is guaranteed legal assistance, in a culturally sensitive manner.

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[27] Committee on the Rights of the Child, general comment No. 10 (2007) on children's rights in juvenile justice, para. 6.

[28] Recommendation of the Committee on the Rights of the Child based on suggestions arising from the day of general discussion on the rights of indigenous children. See CRC/C/133, recommendations on law and public order, including juvenile justice (para. 624, subpara. 13).

[29] General Assembly resolution 45/112, annex, para. 6.

77. Professionals involved in law enforcement and the judiciary should receive appropriate training on the content and meaning of the provisions of the Convention and its Optional Protocols, including the need to adopt special protection measures for indigenous children and other specific groups.[30]

E. States parties' obligations and monitoring of the implementation of the Convention

78. The Committee reminds States parties that ratification of the Convention on the Rights of the Child obliges States parties to take action to ensure the realization of all rights in the Convention for all children within their jurisdiction. The duty to respect and protect requires each State party to ensure that the exercise of the rights of indigenous children is fully protected against any acts of the State party by its legislative, judicial or administrative authorities or by any other entity or person within the State party.

79. Article 3 of the Convention requires States parties to ensure that in all actions concerning children, the best interests of the child shall be a primary consideration. Article 4 of the Convention requires States parties to undertake measures to implement the Convention to the maximum extent of their available resources. Article 42 sets out that States parties are further required to ensure that children and adults are provided information on the principles and provisions of the Convention.

80. In order to effectively implement the rights of the Convention for indigenous children, States parties need to adopt appropriate legislation in accordance with the Convention. Adequate resources should be allocated and special measures adopted in a range of areas in order to effectively ensure that indigenous children enjoy their rights on an equal level with non-indigenous children. Further efforts should be taken to collect and disaggregate data and develop indicators to evaluate the degree of implementation of the rights of indigenous children. In order to develop policy and programming efforts in a culturally sensitive manner, States parties should consult with indigenous communities and directly with indigenous children. Professionals working with indigenous children should be trained on how consideration should be given to cultural aspects of children's rights.

81. The Committee calls for States parties to, when applicable, better integrate information in their periodic reports to the Committee on the implementation of indigenous children's rights and on the adoption of special measures in this regard. Furthermore, the Committee requests States parties to strengthen efforts to translate and disseminate information about the Convention and its Optional Protocols and the reporting process among indigenous communities and children, in order for them to actively participate in the monitoring process. Furthermore, indigenous communities are encouraged to utilize the Convention as an opportunity to assess the implementation of the rights of their children.

82. Finally, the Committee urges States parties to adopt a rights-based approach to indigenous children based on the Convention and other relevant international standards, such as ILO Convention No. 169 and the United Nations Declaration on the Rights of Indigenous Peoples. In order to guarantee effective monitoring of the

[30] Committee on the Rights of the Child, general comment No. 10 (2007) on children's rights in juvenile justice, para. 97.

implementation of the rights of indigenous children, States parties are urged to strengthen direct cooperation with indigenous communities and, if required, seek technical cooperation from international agencies, including United Nations entities. Empowerment of indigenous children and the effective exercise of their rights to culture, religion and language provide an essential foundation of a culturally diverse State in harmony and compliance with its human rights obligations.

Annex IV

General comment No. 12 (2009)
The right of the child to be heard

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Article 12 of the Convention on the Rights of the Child provides:

"1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

2. For this purpose the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law."

I. Introduction

1. Article 12 of the Convention on the Rights of the Child (the Convention) is a unique provision in a human rights treaty; it addresses the legal and social status of children, who, on the one hand lack the full autonomy of adults but, on the other, are subjects of rights. Paragraph 1 assures, to every child capable of forming his or her own views, the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with age and maturity. Paragraph 2 states, in particular, that the child shall be afforded the right to be heard in any judicial or administrative proceedings affecting him or her.

2. The right of all children to be heard and taken seriously constitutes one of the fundamental values of the Convention. The Committee on the Rights of the Child (the Committee) has identified article 12 as one of the four general principles of the Convention, the others being the right to non-discrimination, the right to life and development, and the primary consideration of the child's best interests, which highlights the fact that this article establishes not only a right in itself, but should also be considered in the interpretation and implementation of all other rights.

3. Since the adoption of the Convention in 1989, considerable progress has been achieved at the local, national, regional and global levels in the development of legislation, policies and methodologies to promote the implementation of article 12. A widespread practice has emerged in recent years, which has been broadly conceptualized as "participation", although this term itself does not appear in the text of article 12. This term has evolved and is now widely used to describe ongoing processes, which include information-sharing and dialogue between children and adults based on mutual respect, and in which children can learn how their views and those of adults are taken into account and shape the outcome of such processes.

4. States parties reaffirmed their commitment to the realization of article 12 at the twenty-seventh special session of the General Assembly on children in 2002.[1] However, the Committee notes that, in most societies around the world, implementation of the child's right to express her or his view on the wide range of issues that affect her or him, and to have those views duly taken into account, continues to be impeded by many long-standing practices and attitudes, as well as political and economic barriers. While difficulties are experienced by many children, the Committee particularly recognizes that certain groups of children, including younger boys and girls, as well as children belonging to marginalized and

[1] Resolution S-27/2, "A world fit for children".

disadvantaged groups, face particular barriers in the realization of this right. The Committee also remains concerned about the quality of many of the practices that do exist. There is a need for a better understanding of what article 12 entails and how to fully implement it for every child.

5. In 2006, the Committee held a day of general discussion on the right of the child to be heard in order to explore the meaning and significance of article 12, its linkages to other articles, and the gaps, good practices and priority issues that need to be addressed in order to further the enjoyment of this right.[2] The present general comment arises from the exchange of information which took place on that day, including with children, the accumulated experience of the Committee in reviewing States parties' reports, and the very significant expertise and experience of translating the right embodied in article 12 into practice by governments, non-governmental organizations (NGOs), community organizations, development agencies, and children themselves.

6. The present general comment will first present a legal analysis of the two paragraphs of article 12 and will then explain the requirements to fully realize this right, including in judicial and administrative proceedings in particular (sect. A). In section B, the connection of article 12 with the three other general principles of the Convention, as well as its relation to other articles, will be discussed. The requirements and the impact of the child's right to be heard in different situations and settings are outlined in section C. Section D sets out the basic requirements for the implementation of this right, and the conclusions are presented in section E.

7. The Committee recommends that States parties widely disseminate the present general comment within government and administrative structures as well as to children and civil society. This will necessitate translating it into the relevant languages, making child-friendly versions available, holding workshops and seminars to discuss its implications and how best to implement it, and incorporating it into the training of all professionals working for and with children.

II. Objectives

8. The overall objective of the general comment is to support States parties in the effective implementation of article 12. In so doing it seeks to:

- Strengthen understanding of the meaning of article 12 and its implications for Governments, stakeholders, NGOs and society at large
- Elaborate the scope of legislation, policy and practice necessary to achieve full implementation of article 12
- Highlight the positive approaches in implementing article 12, benefiting from the monitoring experience of the Committee
- Propose basic requirements for appropriate ways to give due weight to children's views in all matters that affect them

[2] See the recommendations of the day of general discussion in 2006 on the right of the child to be heard, available at: http://www2.ohchr.org/english/bodies/crc/docs/discussion/Final_Recommendations_after_DGD.doc.

III. The right to be heard: a right of the individual child and a right of groups of children

9. The general comment is structured according to the distinction made by the Committee between the right to be heard of an individual child and the right to be heard as applied to a group of children (e.g. a class of schoolchildren, the children in a neighbourhood, the children of a country, children with disabilities, or girls). This is a relevant distinction because the Convention stipulates that States parties must assure the right of the child to be heard according to the age and maturity of the child (see the following legal analysis of paragraphs 1 and 2 of article 12).

10. The conditions of age and maturity can be assessed when an individual child is heard and also when a group of children chooses to express its views. The task of assessing a child's age and maturity is facilitated when the group in question is a component of an enduring structure, such as a family, a class of schoolchildren or the residents of a particular neighbourhood, but is made more difficult when children express themselves collectively. Even when confronting difficulties in assessing age and maturity, States parties should consider children as a group to be heard, and the Committee strongly recommends that States parties exert all efforts to listen to or seek the views of those children speaking collectively.

11. States parties should encourage the child to form a free view and should provide an environment that enables the child to exercise her or his right to be heard.

12. The views expressed by children may add relevant perspectives and experience and should be considered in decision-making, policymaking and preparation of laws and/or measures as well as their evaluation.

13. These processes are usually called participation. The exercise of the child's or children's right to be heard is a crucial element of such processes. The concept of participation emphasizes that including children should not only be a momentary act, but the starting point for an intense exchange between children and adults on the development of policies, programmes and measures in all relevant contexts of children's lives.

14. In section A (Legal analysis) of the general comment, the Committee deals with the right to be heard of the individual child. In section C (The implementation of the right to be heard in different settings and situations), the Committee considers the right to be heard of both the individual child and children as a group.

A. Legal analysis

15. Article 12 of the Convention establishes the right of every child to freely express her or his views, in all matters affecting her or him, and the subsequent right for those views to be given due weight, according to the child's age and maturity. This right imposes a clear legal obligation on States parties to recognize this right and ensure its implementation by listening to the views of the child and according them due weight. This obligation requires that States parties, with respect to their particular judicial system, either directly guarantee this right, or adopt or revise laws so that this right can be fully enjoyed by the child.

16. The child, however, has the right not to exercise this right. Expressing views is a choice for the child, not an obligation. States parties have to ensure that the child receives all necessary information and advice to make a decision in favour of her or his best interests.

17. Article 12 as a general principle provides that States parties should strive to ensure that the interpretation and implementation of all other rights incorporated in the Convention are guided by it.[3]

18. Article 12 manifests that the child holds rights which have an influence on her or his life, and not only rights derived from her or his vulnerability (protection) or dependency on adults (provision).[4] The Convention recognizes the child as a subject of rights, and the nearly universal ratification of this international instrument by States parties emphasizes this status of the child, which is clearly expressed in article 12.

1. Literal analysis of article 12

(a) Paragraph 1 of article 12

(i) "Shall assure"

19. Article 12, paragraph 1, provides that States parties "shall assure" the right of the child to freely express her or his views. "Shall assure" is a legal term of special strength, which leaves no leeway for States parties' discretion. Accordingly, States parties are under strict obligation to undertake appropriate measures to fully implement this right for all children. This obligation contains two elements in order to ensure that mechanisms are in place to solicit the views of the child in all matters affecting her or him and to give due weight to those views.

(ii) "Capable of forming his or her own views"

20. States parties shall assure the right to be heard to every child "capable of forming his or her own views". This phrase should not be seen as a limitation, but rather as an obligation for States parties to assess the capacity of the child to form an autonomous opinion to the greatest extent possible. This means that States parties cannot begin with the assumption that a child is incapable of expressing her or his own views. On the contrary, States parties should presume that a child has the capacity to form her or his own views and recognize that she or he has the right to express them; it is not up to the child to first prove her or his capacity.

21. The Committee emphasizes that article 12 imposes no age limit on the right of the child to express her or his views, and discourages States parties from introducing age limits either in law or in practice which would restrict the child's right to be heard in all matters affecting her or him. In this respect, the Committee underlines the following:

- First, in its recommendations following the day of general discussion on implementing child rights in early childhood in 2004, the Committee underlined that the concept of the child as rights-holder is "... anchored in the

[3] See the Committee's general comment No. 5 (2003) on general measures of implementation for the Convention on the Rights of the Child (CRC/GC/2003/5).

[4] The Convention is commonly referred to by the three "ps": provision, protection and participation.

child's daily life from the earliest stage".[5] Research shows that the child is able to form views from the youngest age, even when she or he may be unable to express them verbally.[6] Consequently, full implementation of article 12 requires recognition of, and respect for, non-verbal forms of communication including play, body language, facial expressions, and drawing and painting, through which very young children demonstrate understanding, choices and preferences.

- Second, it is not necessary that the child has comprehensive knowledge of all aspects of the matter affecting her or him, but that she or he has sufficient understanding to be capable of appropriately forming her or his own views on the matter.

- Third, States parties are also under the obligation to ensure the implementation of this right for children experiencing difficulties in making their views heard. For instance, children with disabilities should be equipped with, and enabled to use, any mode of communication necessary to facilitate the expression of their views. Efforts must also be made to recognize the right to expression of views for minority, indigenous and migrant children and other children who do not speak the majority language.

- Lastly, States parties must be aware of the potential negative consequences of an inconsiderate practice of this right, particularly in cases involving very young children, or in instances where the child has been a victim of a criminal offence, sexual abuse, violence, or other forms of mistreatment. States parties must undertake all necessary measures to ensure that the right to be heard is exercised ensuring full protection of the child.

(iii) "The right to express those views freely"

22. The child has the right "to express those views freely". "Freely" means that the child can express her or his views without pressure and can choose whether or not she or he wants to exercise her or his right to be heard. "Freely" also means that the child must not be manipulated or subjected to undue influence or pressure. "Freely" is further intrinsically related to the child's "own" perspective: the child has the right to express her or his own views and not the views of others.

23. States parties must ensure conditions for expressing views that account for the child's individual and social situation and an environment in which the child feels respected and secure when freely expressing her or his opinions.

24. The Committee emphasizes that a child should not be interviewed more often than necessary, in particular when harmful events are explored. The "hearing" of a child is a difficult process that can have a traumatic impact on the child.

25. The realization of the right of the child to express her or his views requires that the child be informed about the matters, options and possible decisions to be taken and their consequences by those who are responsible for hearing the child, and by the child's parents or guardian. The child must also be informed about the conditions under which she or he will be asked to express her or his views. This

[5] CRC/C/GC/7/Rev.1, para. 14.

[6] See Lansdown, G., "The evolving capacities of the child", Innocenti Research Centre, UNICEF/Save the Children, Florence (2005).

right to information is essential, because it is the precondition of the child's clarified decisions.

(iv) "In all matters affecting the child"

26. States parties must assure that the child is able to express her or his views "in all matters affecting" her or him. This represents a second qualification of this right: the child must be heard if the matter under discussion affects the child. This basic condition has to be respected and understood broadly.

27. The Open-ended Working Group established by the Commission on Human Rights, which drafted the text of the Convention, rejected a proposal to define these matters by a list limiting the consideration of a child's or children's views. Instead, it was decided that the right of the child to be heard should refer to "all matters affecting the child". The Committee is concerned that children are often denied the right to be heard, even though it is obvious that the matter under consideration is affecting them and they are capable of expressing their own views with regard to this matter. While the Committee supports a broad definition of "matters", which also covers issues not explicitly mentioned in the Convention, it recognizes the clause "affecting the child", which was added in order to clarify that no general political mandate was intended. The practice, however, including the World Summit for Children, demonstrates that a wide interpretation of matters affecting the child and children helps to include children in the social processes of their community and society. Thus, States parties should carefully listen to children's views wherever their perspective can enhance the quality of solutions.

(v) "Being given due weight in accordance with the age and maturity of the child"

28. The views of the child must be "given due weight in accordance with the age and maturity of the child". This clause refers to the capacity of the child, which has to be assessed in order to give due weight to her or his views, or to communicate to the child the way in which those views have influenced the outcome of the process. Article 12 stipulates that simply listening to the child is insufficient; the views of the child have to be seriously considered when the child is capable of forming her or his own views.

29. By requiring that due weight be given in accordance with age and maturity, article 12 makes it clear that age alone cannot determine the significance of a child's views. Children's levels of understanding are not uniformly linked to their biological age. Research has shown that information, experience, environment, social and cultural expectations, and levels of support all contribute to the development of a child's capacities to form a view. For this reason, the views of the child have to be assessed on a case-by-case examination.

30. Maturity refers to the ability to understand and assess the implications of a particular matter, and must therefore be considered when determining the individual capacity of a child. Maturity is difficult to define; in the context of article 12, it is the capacity of a child to express her or his views on issues in a reasonable and independent manner. The impact of the matter on the child must also be taken into consideration. The greater the impact of the outcome on the life of the child, the more relevant the appropriate assessment of the maturity of that child.

31. Consideration needs to be given to the notion of the evolving capacities of the child, and direction and guidance from parents (see para. 84 and sect. C below).

(b) Paragraph 2 of article 12

(i) "The right to be heard in any judicial and administrative proceedings affecting the child"

32. Article 12, paragraph 2, specifies that opportunities to be heard have to be provided in particular "in any judicial and administrative proceedings affecting the child". The Committee emphasizes that this provision applies to all relevant judicial proceedings affecting the child, without limitation, including, for example, separation of parents, custody, care and adoption, children in conflict with the law, child victims of physical or psychological violence, sexual abuse or other crimes, health care, social security, unaccompanied children, asylum-seeking and refugee children, and victims of armed conflict and other emergencies. Typical administrative proceedings include, for example, decisions about children's education, health, environment, living conditions, or protection. Both kinds of proceedings may involve alternative dispute mechanisms such as mediation and arbitration.

33. The right to be heard applies both to proceedings which are initiated by the child, such as complaints against ill-treatment and appeals against school exclusion, as well as to those initiated by others which affect the child, such as parental separation or adoption. States parties are encouraged to introduce legislative measures requiring decision makers in judicial or administrative proceedings to explain the extent of the consideration given to the views of the child and the consequences for the child.

34. A child cannot be heard effectively where the environment is intimidating, hostile, insensitive or inappropriate for her or his age. Proceedings must be both accessible and child-appropriate. Particular attention needs to be paid to the provision and delivery of child-friendly information, adequate support for self-advocacy, appropriately trained staff, design of courtrooms, clothing of judges and lawyers, sight screens, and separate waiting rooms.

(ii) "Either directly, or through a representative or an appropriate body"

35. After the child has decided to be heard, he or she will have to decide how to be heard: "either directly, or through a representative or appropriate body". The Committee recommends that, wherever possible, the child must be given the opportunity to be directly heard in any proceedings.

36. The representative can be the parent(s), a lawyer, or another person (inter alia, a social worker). However, it must be stressed that in many cases (civil, penal or administrative), there are risks of a conflict of interest between the child and their most obvious representative (parent(s)). If the hearing of the child is undertaken through a representative, it is of utmost importance that the child's views are transmitted correctly to the decision maker by the representative. The method chosen should be determined by the child (or by the appropriate authority as necessary) according to her or his particular situation. Representatives must have sufficient knowledge and understanding of the various aspects of the decision-making process and experience in working with children.

37. The representative must be aware that she or he represents exclusively the interests of the child and not the interests of other persons (parent(s)), institutions or bodies (e.g. residential home, administration or society). Codes of conduct should be developed for representatives who are appointed to represent the child's views.

(iii) "In a manner consistent with the procedural rules of national law"

38. The opportunity for representation must be "in a manner consistent with the procedural rules of national law". This clause should not be interpreted as permitting the use of procedural legislation which restricts or prevents enjoyment of this fundamental right. On the contrary, States parties are encouraged to comply with the basic rules of fair proceedings, such as the right to a defence and the right to access one's own files.

39. When rules of procedure are not adhered to, the decision of the court or the administrative authority can be challenged and may be overturned, substituted, or referred back for further juridical consideration.

2. Steps for the implementation of the child's right to be heard

40. Implementation of the two paragraphs of article 12 requires five steps to be taken in order to effectively realize the right of the child to be heard whenever a matter affects a child or when the child is invited to give her or his views in a formal proceeding as well as in other settings. These requirements have to be applied in a way which is appropriate for the given context.

(a) Preparation

41. Those responsible for hearing the child have to ensure that the child is informed about her or his right to express her or his opinion in all matters affecting the child and, in particular, in any judicial and administrative decision-making processes, and about the impact that his or her expressed views will have on the outcome. The child must, furthermore, receive information about the option of either communicating directly or through a representative. She or he must be aware of the possible consequences of this choice. The decision maker must adequately prepare the child before the hearing, providing explanations as to how, when and where the hearing will take place and who the participants will be, and has to take account of the views of the child in this regard.

(b) The hearing

42. The context in which a child exercises her or his right to be heard has to be enabling and encouraging, so that the child can be sure that the adult who is responsible for the hearing is willing to listen and seriously consider what the child has decided to communicate. The person who will hear the views of the child can be an adult involved in the matters affecting the child (e.g. a teacher, social worker or caregiver), a decision maker in an institution (e.g. a director, administrator or judge), or a specialist (e.g. a psychologist or physician).

43. Experience indicates that the situation should have the format of a talk rather than a one-sided examination. Preferably, a child should not be heard in open court, but under conditions of confidentiality.

(c) Assessment of the capacity of the child

44. The child's views must be given due weight, when a case-by-case analysis indicates that the child is capable of forming her or his own views. If the child is capable of forming her or his own views in a reasonable and independent manner, the decision maker must consider the views of the child as a significant factor in the settlement of the issue. Good practice for assessing the capacity of the child has to be developed.

(d) Information about the weight given to the views of the child (feedback)

45. Since the child enjoys the right that her or his views are given due weight, the decision maker has to inform the child of the outcome of the process and explain how her or his views were considered. The feedback is a guarantee that the views of the child are not only heard as a formality, but are taken seriously. The information may prompt the child to insist, agree or make another proposal or, in the case of a judicial or administrative procedure, file an appeal or a complaint.

(e) Complaints, remedies and redress

46. Legislation is needed to provide children with complaint procedures and remedies when their right to be heard and for their views to be given due weight is disregarded and violated.[7] Children should have the possibility of addressing an ombudsman or a person of a comparable role in all children's institutions, inter alia, in schools and day-care centres, in order to voice their complaints. Children should know who these persons are and how to access them. In the case of family conflicts about consideration of children's views, a child should be able to turn to a person in the youth services of the community.

47. If the right of the child to be heard is breached with regard to judicial and administrative proceedings (art. 12, para. 2), the child must have access to appeals and complaints procedures which provide remedies for rights violations. Complaints procedures must provide reliable mechanisms to ensure that children are confident that using them will not expose them to risk of violence or punishment.

3. Obligations of States parties

(a) Core obligations of States parties

48. The child's right to be heard imposes the obligation on States parties to review or amend their legislation in order to introduce mechanisms providing children with access to appropriate information, adequate support, if necessary, feedback on the weight given to their views, and procedures for complaints, remedies or redress.

49. In order to fulfil these obligations, States parties should adopt the following strategies:

- Review and withdraw restrictive declarations and reservations to article 12
- Establish independent human rights institutions, such as children's ombudsmen or commissioners with a broad children's rights mandate[8]

[7] See the Committee's general comment No. 5 (2003) on general measures of implementation of the Convention on the Rights of the Child, para. 24.

[8] See the Committee's general comment No. 2 (2002) on the role of independent human rights

- Provide training on article 12, and its application in practice, for all professionals working with, and for, children, including lawyers, judges, police, social workers, community workers, psychologists, caregivers, residential and prison officers, teachers at all levels of the educational system, medical doctors, nurses and other health professionals, civil servants and public officials, asylum officers and traditional leaders
- Ensure appropriate conditions for supporting and encouraging children to express their views, and make sure that these views are given due weight, by regulations and arrangements which are firmly anchored in laws and institutional codes and are regularly evaluated with regard to their effectiveness
- Combat negative attitudes, which impede the full realization of the child's right to be heard, through public campaigns, including opinion leaders and the media, to change widespread customary conceptions of the child

(b) Specific obligations with regard to judicial and administrative proceedings

(i) The child's right to be heard in civil judicial proceedings

50. The main issues which require that the child be heard are detailed below:

Divorce and separation

51. In cases of separation and divorce, the children of the relationship are unequivocally affected by decisions of the courts. Issues of maintenance for the child as well as custody and access are determined by the judge either at trial or through court-directed mediation. Many jurisdictions have included in their laws, with respect to the dissolution of a relationship, a provision that the judge must give paramount consideration to the "best interests of the child".

52. For this reason, all legislation on separation and divorce has to include the right of the child to be heard by decision makers and in mediation processes. Some jurisdictions, either as a matter of policy or legislation, prefer to state an age at which the child is regarded as capable of expressing her or his own views. The Convention, however, anticipates that this matter be determined on a case-by-case basis, since it refers to age and maturity, and for this reason requires an individual assessment of the capacity of the child.

Separation from parents and alternative care

53. Whenever a decision is made to remove a child from her or his family because the child is a victim of abuse or neglect within his or her home, the view of the child must be taken into account in order to determine the best interests of the child. The intervention may be initiated by a complaint from a child, another family member or a member of the community alleging abuse or neglect in the family.

54. The Committee's experience is that the child's right to be heard is not always taken into account by States parties. The Committee recommends that States parties ensure, through legislation, regulation and policy directives, that the child's views are solicited and considered, including decisions regarding placement in foster care

institutions.

or homes, development of care plans and their review, and visits with parents and family.

Adoption and *kafalah* of Islamic law

55. When a child is to be placed for adoption or *kafalah* of Islamic law and finally will be adopted or placed in *kafalah*, it is vitally important that the child is heard. Such a process is also necessary when step-parents or foster families adopt a child, although the child and the adopting parents may have already been living together for some time.

56. Article 21 of the Convention states that the best interests of the child shall be the paramount consideration. In decisions on adoption, *kafalah* or other placement, the "best interests" of the child cannot be defined without consideration of the child's views. The Committee urges all States parties to inform the child, if possible, about the effects of adoption, *kafalah* or other placement, and to ensure by legislation that the views of the child are heard.

(ii) The child's right to be heard in penal judicial proceedings

57. In penal proceedings, the right of the child to express her or his views freely in all matters affecting the child has to be fully respected and implemented throughout every stage of the process of juvenile justice.[9]

The child offender

58. Article 12, paragraph 2, of the Convention requires that a child alleged to have, accused of, or recognized as having, infringed the penal law, has the right to be heard. This right has to be fully observed during all stages of the judicial process, from the pretrial stage when the child has the right to remain silent, to the right to be heard by the police, the prosecutor and the investigating judge. It also applies through the stages of adjudication and disposition, as well as implementation of the imposed measures.

59. In case of diversion, including mediation, a child must have the opportunity to give free and voluntary consent and must be given the opportunity to obtain legal and other advice and assistance in determining the appropriateness and desirability of the diversion proposed.

60. In order to effectively participate in the proceedings, every child must be informed promptly and directly about the charges against her or him in a language she or he understands, and also about the juvenile justice process and possible measures taken by the court. The proceedings should be conducted in an atmosphere enabling the child to participate and to express her/himself freely.

61. The court and other hearings of a child in conflict with the law should be conducted behind closed doors. Exceptions to this rule should be very limited, clearly outlined in national legislation and guided by the best interests of the child.

[9] See the Committee's general comment No. 10 (2007) on children's rights in juvenile justice (CRC/C/GC/10).

The child victim and child witness

62. The child victim and child witness of a crime must be given an opportunity to fully exercise her or his right to freely express her or his view in accordance with United Nations Economic and Social Council resolution 2005/20, "Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime".[10]

63. In particular, this means that every effort has to be made to ensure that a child victim and/or witness is consulted on the relevant matters with regard to involvement in the case under scrutiny, and enabled to express freely, and in her or his own manner, views and concerns regarding her or his involvement in the judicial process.

64. The right of the child victim and witness is also linked to the right to be informed about issues such as availability of health, psychological and social services, the role of a child victim and/or witness, the ways in which "questioning" is conducted, existing support mechanisms in place for the child when submitting a complaint and participating in investigations and court proceedings, the specific places and times of hearings, the availability of protective measures, the possibilities of receiving reparation, and the provisions for appeal.

(iii) The child's right to be heard in administrative proceedings

65. All States parties should develop administrative procedures in legislation which reflect the requirements of article 12 and ensure the child's right to be heard along with other procedural rights, including the rights to disclosure of pertinent records, notice of hearing, and representation by parents or others.

66. Children are more likely to be involved with administrative proceedings than court proceedings, because administrative proceedings are less formal, more flexible and relatively easy to establish through law and regulation. The proceedings have to be child-friendly and accessible.

67. Specific examples of administrative proceedings relevant for children include mechanisms to address discipline issues in schools (e.g. suspensions and expulsions), refusals to grant school certificates and performance-related issues, disciplinary measures and refusals to grant privileges in juvenile detention centres, asylum requests from unaccompanied children, and applications for driver's licences. In these matters a child should have the right to be heard and enjoy the other rights "consistent with the procedural rules of national law".

B. The right to be heard and the links with other provisions of the Convention

68. Article 12, as a general principle, is linked to the other general principles of the Convention, such as article 2 (the right to non-discrimination), article 6 (the right to life, survival and development) and, in particular, is interdependent with article 3 (primary consideration of the best interests of the child). The article is also closely linked with the articles related to civil rights and freedoms, particularly article 13 (the right to freedom of expression) and article 17 (the right to

[10] United Nations Economic and Social Council resolution 2005/20, in particular arts. 8, 19 and 20. Available at: www.un.org/ecosoc/docs/2005/Resolution%202005-20.pdf.

information). Furthermore, article 12 is connected to all other articles of the Convention, which cannot be fully implemented if the child is not respected as a subject with her or his own views on the rights enshrined in the respective articles and their implementation.

69. The connection of article 12 to article 5 (evolving capacities of the child and appropriate direction and guidance from parents, see para. 84 of the present general comment) is of special relevance, since it is crucial that the guidance given by parents takes account of the evolving capacities of the child.

1. Articles 12 and 3

70. The purpose of article 3 is to ensure that in all actions undertaken concerning children, by a public or private welfare institution, courts, administrative authorities or legislative bodies, the best interests of the child are a primary consideration. It means that every action taken on behalf of the child has to respect the best interests of the child. The best interests of the child is similar to a procedural right that obliges States parties to introduce steps into the action process to ensure that the best interests of the child are taken into consideration. The Convention obliges States parties to assure that those responsible for these actions hear the child as stipulated in article 12. This step is mandatory.

71. The best interests of the child, established in consultation with the child, is not the only factor to be considered in the actions of institutions, authorities and administration. It is, however, of crucial importance, as are the views of the child.

72. Article 3 is devoted to individual cases, but, explicitly, also requires that the best interests of children as a group are considered in all actions concerning children. States parties are consequently under an obligation to consider not only the individual situation of each child when identifying their best interests, but also the interests of children as a group. Moreover, States parties must examine the actions of private and public institutions, authorities, as well as legislative bodies. The extension of the obligation to "legislative bodies" clearly indicates that every law, regulation or rule that affects children must be guided by the "best interests" criterion.

73. There is no doubt that the best interests of children as a defined group have to be established in the same way as when weighing individual interests. If the best interests of large numbers of children are at stake, heads of institutions, authorities, or governmental bodies should also provide opportunities to hear the concerned children from such undefined groups and to give their views due weight when they plan actions, including legislative decisions, which directly or indirectly affect children.

74. There is no tension between articles 3 and 12, only a complementary role of the two general principles: one establishes the objective of achieving the best interests of the child and the other provides the methodology for reaching the goal of hearing either the child or the children. In fact, there can be no correct application of article 3 if the components of article 12 are not respected. Likewise, article 3 reinforces the functionality of article 12, facilitating the essential role of children in all decisions affecting their lives.

2. Articles 12, 2 and 6

75. The right to non-discrimination is an inherent right guaranteed by all human rights instruments including the Convention on the Rights of the Child. According to article 2 of the Convention, every child has the right not to be discriminated against in the exercise of his or her rights including those provided under article 12. The Committee stresses that States parties shall take adequate measures to assure to every child the right to freely express his or her views and to have those views duly taken into account without discrimination on grounds of race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status. States parties shall address discrimination, including against vulnerable or marginalized groups of children, to ensure that children are assured their right to be heard and are enabled to participate in all matters affecting them on an equal basis with all other children.

76. In particular, the Committee notes with concern that, in some societies, customary attitudes and practices undermine and place severe limitations on the enjoyment of this right. States parties shall take adequate measures to raise awareness and educate the society about the negative impact of such attitudes and practices and to encourage attitudinal changes in order to achieve full implementation of the rights of every child under the Convention.

77. The Committee urges States parties to pay special attention to the right of the girl child to be heard, to receive support, if needed, to voice her view and her view be given due weight, as gender stereotypes and patriarchal values undermine and place severe limitations on girls in the enjoyment of the right set forth in article 12.

78. The Committee welcomes the obligation of States parties in article 7 of the Convention on the Rights of Persons with Disabilities to ensure that children with disabilities are provided with the necessary assistance and equipment to enable them to freely express their views and for those views to be given due weight.

79. Article 6 of the Convention on the Rights of the Child acknowledges that every child has an inherent right to life and that States parties shall ensure, to the maximum extent possible, the survival and development of the child. The Committee notes the importance of promoting opportunities for the child's right to be heard, as child participation is a tool to stimulate the full development of the personality and the evolving capacities of the child consistent with article 6 and with the aims of education embodied in article 29.

3. Articles 12, 13 and 17

80. Article 13, on the right to freedom of expression, and article 17, on access to information, are crucial prerequisites for the effective exercise of the right to be heard. These articles establish that children are subjects of rights and, together with article 12, they assert that the child is entitled to exercise those rights on his or her own behalf, in accordance with her or his evolving capacities.

81. The right to freedom of expression embodied in article 13 is often confused with article 12. However, while both articles are strongly linked, they do elaborate different rights. Freedom of expression relates to the right to hold and express opinions, and to seek and receive information through any media. It asserts the right of the child not to be restricted by the State party in the opinions she or he holds or expresses. As such, the obligation it imposes on States parties is to refrain from

interference in the expression of those views, or in access to information, while protecting the right of access to means of communication and public dialogue. Article 12, however, relates to the right of expression of views specifically about matters which affect the child, and the right to be involved in actions and decisions that impact on her or his life. Article 12 imposes an obligation on States parties to introduce the legal framework and mechanisms necessary to facilitate active involvement of the child in all actions affecting the child and in decision-making, and to fulfil the obligation to give due weight to those views once expressed. Freedom of expression in article 13 requires no such engagement or response from States parties. However, creating an environment of respect for children to express their views, consistent with article 12, also contributes towards building children's capacities to exercise their right to freedom of expression.

82. Fulfilment of the child's right to information, consistent with article 17 is, to a large degree, a prerequisite for the effective realization of the right to express views. Children need access to information in formats appropriate to their age and capacities on all issues of concern to them. This applies to information, for example, relating to their rights, any proceedings affecting them, national legislation, regulations and policies, local services, and appeals and complaints procedures. Consistent with articles 17 and 42, States parties should include children's rights in the school curricula.

83. The Committee also reminds States parties that the media are an important means both of promoting awareness of the right of children to express their views, and of providing opportunities for the public expression of such views. It urges various forms of the media to dedicate further resources to the inclusion of children in the development of programmes and the creation of opportunities for children to develop and lead media initiatives on their rights.[11]

4. Articles 12 and 5

84. Article 5 of the Convention states that States parties shall respect the responsibilities, rights and duties of parents, legal guardians, or members of the extended family or community as provided for by local custom, to give direction and guidance to the child in her or his exercise of the rights recognized in the Convention. Consequently, the child has a right to direction and guidance, which have to compensate for the lack of knowledge, experience and understanding of the child and are restricted by his or her evolving capacities, as stated in this article. The more the child himself or herself knows, has experienced and understands, the more the parent, legal guardian or other persons legally responsible for the child have to transform direction and guidance into reminders and advice and later to an exchange on an equal footing. This transformation will not take place at a fixed point in a child's development, but will steadily increase as the child is encouraged to contribute her or his views.

85. This requirement is stimulated by article 12 of the Convention, which stipulates that the child's views must be given due weight, whenever the child is capable of forming her or his own views. In other words, as children acquire

[11] Day of general discussion on the child and the media (1996): www.unhchr.ch/html/menu2/6/crc/doc/days/media.pdf.

capacities, so they are entitled to an increasing level of responsibility for the regulation of matters affecting them.[12]

5. Article 12 and the implementation of child rights in general

86. In addition to the articles discussed in the preceding paragraphs, most other articles of the Convention require and promote children's involvement in matters affecting them. For these manifold involvements, the concept of participation is ubiquitously used. Unquestionably, the lynchpin of these involvements is article 12, but the requirement of planning, working and developing in consultation with children is present throughout the Convention.

87. The practice of implementation deals with a broad range of problems, such as health, the economy, education or the environment, which are of interest not only to the child as an individual, but to groups of children and children in general. Consequently, the Committee has always interpreted participation broadly in order to establish procedures not only for individual children and clearly defined groups of children, but also for groups of children, such as indigenous children, children with disabilities, or children in general, who are affected directly or indirectly by social, economic or cultural conditions of living in their society.

88. This broad understanding of children's participation is reflected in the outcome document adopted by the twenty-seventh special session of the General Assembly entitled "A world fit for children". States parties have promised "to develop and implement programmes to promote meaningful participation by children, including adolescents, in decision-making processes, including in families and schools and at the local and national levels" (para. 32, subpara. 1). The Committee has stated in its general comment No. 5 on general measures of implementation for the Convention on the Rights of the Child: "It is important that Governments develop a direct relationship with children, not simply one mediated through non-governmental organizations (NGOs) or human rights institutions."[13]

C. The implementation of the right to be heard in different settings and situations

89. The right of the child to be heard has to be implemented in the diverse settings and situations in which children grow up, develop and learn. In these settings and situations, different concepts of the child and her or his role exist, which may invite or restrict children's involvement in everyday matters and crucial decisions. Various ways of influencing the implementation of the child's right to be heard are available, which States parties may use to foster children's participation.

1. In the family

90. A family where children can freely express views and be taken seriously from the earliest ages provides an important model, and is a preparation for the child to exercise the right to be heard in the wider society. Such an approach to parenting serves to promote individual development, enhance family relations and support

[12] General comment No. 5 (2003) on general measures of implementation for the Convention on the Rights of the Child.

[13] Ibid., para. 12.

children's socialization and plays a preventive role against all forms of violence in the home and family.

91. The Convention recognizes the rights and responsibilities of parents, or other legal guardians, to provide appropriate direction and guidance to their children (see para. 84 above), but underlines that this is to enable the child to exercise his or her rights and requires that direction and guidance are undertaken in a manner consistent with the evolving capacities of the child.

92. States parties should encourage, through legislation and policy, parents, guardians and childminders to listen to children and give due weight to their views in matters that concern them. Parents should also be advised to support children in realizing the right to express their views freely and to have children's views duly taken into account at all levels of society.

93. In order to support the development of parenting styles respecting the child's right to be heard, the Committee recommends that States parties promote parent education programmes, which build on existing positive behaviours and attitudes and disseminate information on the rights of children and parents enshrined in the Convention.

94. Such programmes need to address:

- The relationship of mutual respect between parents and children
- The involvement of children in decision-making
- The implication of giving due weight to the views of every family member
- The understanding, promotion and respect for children's evolving capacities
- Ways of dealing with conflicting views within the family

95. These programmes have to reinforce the principle that girls and boys have equal rights to express their views.

96. The media should play a strong role in communicating to parents that their children's participation is of high value for the children themselves, their families and society.

2. In alternative care

97. Mechanisms must be introduced to ensure that children in all forms of alternative care, including in institutions, are able to express their views and that those views be given due weight in matters of their placement, the regulations of care in foster families or homes and their daily lives. These should include:

- Legislation providing the child with the right to information about any placement, care and/or treatment plan and meaningful opportunities to express her or his views and for those views to be given due weight throughout the decision-making process.
- Legislation ensuring the right of the child to be heard, and that her or his views be given due weight in the development and establishment of child-friendly care services.
- Establishment of a competent monitoring institution, such as a children's ombudsperson, commissioner or inspectorate, to monitor compliance with the

rules and regulations governing the provision of care, protection or treatment of children in accordance with the obligations under article 3. The monitoring body should be mandated to have unimpeded access to residential facilities (including those for children in conflict with the law), to hear the views and concerns of the child directly, and to monitor the extent to which his or her views are listened to and given due weight by the institution itself.

- Establishment of effective mechanisms, for example, a representative council of the children, both girls and boys, in the residential care facility, with the mandate to participate in the development and implementation of the policy and any rules of the institution.

3. In health care

98. The realization of the provisions of the Convention requires respect for the child's right to express his or her views and to participate in promoting the healthy development and well-being of children. This applies to individual health-care decisions, as well as to children's involvement in the development of health policy and services.

99. The Committee identifies several distinct but linked issues that need consideration in respect of the child's involvement in practices and decisions relating to her or his own health care.

100. Children, including young children, should be included in decision-making processes, in a manner consistent with their evolving capacities. They should be provided with information about proposed treatments and their effects and outcomes, including in formats appropriate and accessible to children with disabilities.

101. States parties need to introduce legislation or regulations to ensure that children have access to confidential medical counselling and advice without parental consent, irrespective of the child's age, where this is needed for the child's safety or well-being. Children may need such access, for example, where they are experiencing violence or abuse at home, or in need of reproductive health education or services, or in case of conflicts between parents and the child over access to health services. The right to counselling and advice is distinct from the right to give medical consent and should not be subject to any age limit.

102. The Committee welcomes the introduction in some countries of a fixed age at which the right to consent transfers to the child, and encourages States parties to give consideration to the introduction of such legislation. Thus, children above that age have an entitlement to give consent without the requirement for any individual professional assessment of capacity after consultation with an independent and competent expert. However, the Committee strongly recommends that States parties ensure that, where a younger child can demonstrate capacity to express an informed view on her or his treatment, this view is given due weight.

103. Physicians and health-care facilities should provide clear and accessible information to children on their rights concerning their participation in paediatric research and clinical trials. They have to be informed about the research, so that their informed consent can be obtained in addition to other procedural safeguards.

104. States parties should also introduce measures enabling children to contribute their views and experiences to the planning and programming of services for their health and development. Their views should be sought on all aspects of health provision, including what services are needed, how and where they are best provided, discriminatory barriers to accessing services, quality and attitudes of health professionals, and how to promote children's capacities to take increasing levels of responsibility for their own health and development. This information can be obtained through, inter alia, feedback systems for children using services or involved in research and consultative processes, and can be transmitted to local or national children's councils or parliaments to develop standards and indicators of health services that respect the rights of the child.[14]

4. In education and school

105. Respect for the right of the child to be heard within education is fundamental to the realization of the right to education. The Committee notes with concern continuing authoritarianism, discrimination, disrespect and violence which characterize the reality of many schools and classrooms. Such environments are not conducive to the expression of children's views and the due weight to be given these views.

106. The Committee recommends that States parties take action to build opportunities for children to express their views and for those views to be given due weight with regard to the following issues.

107. In all educational environments, including educational programmes in the early years, the active role of children in a participatory learning environment should be promoted.[15] Teaching and learning must take into account life conditions and prospects of the children. For this reason, education authorities have to include children's and their parents' views in the planning of curricula and school programmes.

108. Human rights education can shape the motivations and behaviours of children only when human rights are practised in the institutions in which the child learns, plays and lives together with other children and adults.[16] In particular, the child's right to be heard is under critical scrutiny by children in these institutions, where children can observe, whether in fact due weight is given to their views as declared in the Convention.

109. Children's participation is indispensable for the creation of a social climate in the classroom, which stimulates cooperation and mutual support needed for child-centred interactive learning. Giving children's views weight is particularly important in the elimination of discrimination, prevention of bullying and disciplinary measures. The Committee welcomes the expansion of peer education and peer counselling.

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[14] The Committee also draws attention to its general comment No. 3 (2003) on HIV/AIDS and the rights of the child, paras. 11 and 12, and its general comment No. 4 (2003) on adolescent health, para. 6.

[15] "A human rights-based approach to Education for All: A framework for the realization of children's right to education and rights within education", UNICEF/UNESCO (2007).

[16] Committee on the Rights of the Child, general comment No. 1 (2001) on the aims of education (art. 29, para. 1, of the Convention) (CRC/GC/2001/1).

110. Steady participation of children in decision-making processes should be achieved through, inter alia, class councils, student councils and student representation on school boards and committees, where they can freely express their views on the development and implementation of school policies and codes of behaviour. These rights need to be enshrined in legislation, rather than relying on the goodwill of authorities, schools and head teachers to implement them.

111. Beyond the school, States parties should consult children at the local and national levels on all aspects of education policy, including, inter alia, the strengthening of the child-friendly character of the educational system, informal and non-formal facilities of learning, which give children a "second chance", school curricula, teaching methods, school structures, standards, budgeting and child-protection systems.

112. The Committee encourages States parties to support the development of independent student organizations, which can assist children in competently performing their participatory roles in the education system.

113. In decisions about the transition to the next level of schools or choice of tracks or streams, the right of the child to be heard has to be assured as these decisions deeply affect the child's best interests. Such decisions must be subject to administrative or judicial review. Additionally, in disciplinary matters, the right of the child to be heard has to be fully respected.[17] In particular, in the case of exclusion of a child from instruction or school, this decision must be subject to judicial review as it contradicts the child's right to education.

114. The Committee welcomes the introduction of child-friendly school programmes in many countries, which seek to provide interactive, caring, protective and participatory environments that prepare children and adolescents for active roles in society and responsible citizenship within their communities.

5. In play, recreation, sports and cultural activities

115. Children require play, recreation, physical and cultural activities for their development and socialization. These should be designed taking into account children's preferences and capacities. Children who are able to express their views should be consulted regarding the accessibility and appropriateness of play and recreation facilities. Very young children and some children with disabilities, who are unable to participate in formal consultative processes, should be provided with particular opportunities to express their wishes.

6. In the workplace

116. Children working at younger ages than permitted by laws and International Labour Organization Conventions Nos. 138 (1973) and 182 (1999) have to be heard in child-sensitive settings in order to understand their views of the situation and their best interests. They should be included in the search for a solution, which respects the economic and socio-structural constraints as well as the cultural context under which these children work. Children should also be heard when policies are

[17] States parties should refer to the Committee's general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment, which explains participatory strategies to eliminate corporal punishment (CRC/C/GC/8).

developed to eliminate the root causes of child labour, in particular regarding education.

117. Working children have a right to be protected by law against exploitation and should be heard when worksites and conditions of work are examined by inspectors investigating the implementation of labour laws. Children and, if existing, representatives of working children's associations should also be heard when labour laws are drafted or when the enforcement of laws is considered and evaluated.

7. In situations of violence

118. The Convention establishes the right of the child to be protected from all forms of violence and the responsibility of States parties to ensure this right for every child without any discrimination. The Committee encourages States parties to consult with children in the development and implementation of legislative, policy, educational and other measures to address all forms of violence. Particular attention needs to be paid to ensuring that marginalized and disadvantaged children, such as exploited children, street children or refugee children, are not excluded from consultative processes designed to elicit views on relevant legislation and policy processes.

119. In this regard, the Committee welcomes the findings of the Secretary-General's Study on Violence against Children, and urges States parties to implement fully its recommendations, including the recommendation to provide the space for children to freely express their views and give these views due weight in all aspects of prevention, reporting and monitoring violence against them.[18]

120. Much of the violence perpetrated against children goes unchallenged both because certain forms of abusive behaviour are understood by children as accepted practices, and due to the lack of child-friendly reporting mechanisms. For example, they have no one to whom they can report in confidence and safety about experienced maltreatment, such as corporal punishment, genital mutilation or early marriage, and no channel to communicate their general observations to those accountable for implementation of their rights. Thus, effective inclusion of children in protective measures requires that children be informed about their right to be heard and to grow up free from all forms of physical and psychological violence. States parties should oblige all children's institutions to establish easy access to individuals or organizations to which they can report in confidence and safety, including through telephone helplines, and to provide places where children can contribute their experience and views on combating violence against children.

121. The Committee also draws the attention of States parties to the recommendation in the Secretary-General's Study on Violence against Children to support and encourage children's organizations and child-led initiatives to address violence and to include these organizations in the elaboration, establishment and evaluation of anti-violence programmes and measures, so that children can play a key role in their own protection.

[18] Report of the independent expert for the United Nations Study on Violence against Children (A/61/299).

8. In the development of prevention strategies

122. The Committee notes that the voices of children have increasingly become a powerful force in the prevention of child rights violations. Good practice examples are available, inter alia, in the fields of violence prevention in schools, combating child exploitation through hazardous and extensive labour, providing health services and education to street children, and in the juvenile justice system. Children should be consulted in the formulation of legislation and policy related to these and other problem areas and involved in the drafting, development and implementation of related plans and programmes.

9. In immigration and asylum proceedings

123. Children who come to a country following their parents in search of work or as refugees are in a particularly vulnerable situation. For this reason it is urgent to fully implement their right to express their views on all aspects of the immigration and asylum proceedings. In the case of migration, the child has to be heard on his or her educational expectations and health conditions in order to integrate him or her into school and health services. In the case of an asylum claim, the child must additionally have the opportunity to present her or his reasons leading to the asylum claim.

124. The Committee emphasizes that these children have to be provided with all relevant information, in their own language, on their entitlements, the services available, including means of communication, and the immigration and asylum process, in order to make their voice heard and to be given due weight in the proceedings. A guardian or adviser should be appointed, free of charge. Asylum-seeking children may also need effective family tracing and relevant information about the situation in their country of origin to determine their best interests. Particular assistance may be needed for children formerly involved in armed conflict to allow them to pronounce their needs. Furthermore, attention is needed to ensure that stateless children are included in decision-making processes within the territories where they reside.[19]

10. In emergency situations

125. The Committee underlines that the right embodied in article 12 does not cease in situations of crisis or in their aftermath. There is a growing body of evidence of the significant contribution that children are able to make in conflict situations, post-conflict resolution and reconstruction processes following emergencies.[20] Thus, the Committee emphasized in its recommendation after the day of general discussion in 2008 that children affected by emergencies should be encouraged and enabled to participate in analysing their situation and future prospects. Children's participation helps them to regain control over their lives, contributes to rehabilitation, develops organizational skills and strengthens a sense of identity. However, care needs to be taken to protect children from exposure to situations that are likely to be traumatic or harmful.

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[19] See the Committee's general comment No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin (CRC/GC/2005/6).

[20] "The participation of children and young people in emergencies: a guide for relief agencies", UNICEF, Bangkok (2007).

126. Accordingly, the Committee encourages States parties to support mechanisms which enable children, in particular adolescents, to play an active role in both post-emergency reconstruction and post-conflict resolution processes. Their views should be elicited in the assessment, design, implementation, monitoring and evaluation of programmes. For example, children in refugee camps can be encouraged to contribute to their own safety and well-being through the establishment of children's forums. Support needs to be given to enable children to establish such forums, while ensuring that their operation is consistent with children's best interests and their right to protection from harmful experiences.

11. In national and international settings

127. Much of the opportunity for children's participation takes place at the community level. The Committee welcomes the growing number of local youth parliaments, municipal children's councils and ad hoc consultations where children can voice their views in decision-making processes. However, these structures for formal representative participation in local government should be just one of many approaches to the implementation of article 12 at the local level, as they only allow for a relatively small number of children to engage in their local communities. Consulting hours of politicians and officials, open house and visits in schools and kindergartens create additional opportunities for communication.

128. Children should be supported and encouraged to form their own child-led organizations and initiatives, which will create space for meaningful participation and representation. In addition, children can contribute their perspectives, for example, on the design of schools, playgrounds, parks, leisure and cultural facilities, public libraries, health facilities and local transport systems in order to ensure more appropriate services. In community development plans that call for public consultation, children's views should be explicitly included.

129. Such participation opportunities are, meanwhile, established in many countries also on the district, regional, federal, state and national levels, where youth parliaments, councils and conferences provide forums for children to present their views and make them known to relevant audiences. NGOs and civil society organizations have developed practices to support children, which safeguard the transparency of representation and counter the risks of manipulation or tokenism.

130. The Committee welcomes the significant contributions by UNICEF and NGOs in promoting awareness-raising on children's right to be heard and their participation in all domains of their lives, and encourages them to further promote child participation in all matters affecting them, including at the grass-roots, community, and national or international levels, and to facilitate exchanges of best practices. Networking among child-led organizations should be actively encouraged to increase opportunities for shared learning and platforms for collective advocacy.

131. At the international level, children's participation at the World Summits for Children convened by the General Assembly in 1990 and 2002, and the involvement of children in the reporting process to the Committee on the Rights of the Child have particular relevance. The Committee welcomes written reports and additional oral information submitted by child organizations and children's representatives in the monitoring process of child rights implementation by States parties, and encourages States parties and NGOs to support children to present their views to the Committee.

D. Basic requirements for the implementation of the right of the child to be heard

132. The Committee urges States parties to avoid tokenistic approaches, which limit children's expression of views, or which allow children to be heard, but fail to give their views due weight. It emphasizes that adult manipulation of children, placing children in situations where they are told what they can say, or exposing children to risk of harm through participation are not ethical practices and cannot be understood as implementing article 12.

133. If participation is to be effective and meaningful, it needs to be understood as a process, not as an individual one-off event. Experience since the Convention on the Rights of the Child was adopted in 1989 has led to a broad consensus on the basic requirements which have to be reached for effective, ethical and meaningful implementation of article 12. The Committee recommends that States parties integrate these requirements into all legislative and other measures for the implementation of article 12.

134. All processes in which a child or children are heard and participate, must be:

(a) Transparent and informative — children must be provided with full, accessible, diversity-sensitive and age-appropriate information about their right to express their views freely and their views to be given due weight, and how this participation will take place, its scope, purpose and potential impact;

(b) Voluntary — children should never be coerced into expressing views against their wishes and they should be informed that they can cease involvement at any stage;

(c) Respectful — children's views have to be treated with respect and they should be provided with opportunities to initiate ideas and activities. Adults working with children should acknowledge, respect and build on good examples of children's participation, for instance, in their contributions to the family, school, culture and the work environment. They also need an understanding of the socio-economic, environmental and cultural context of children's lives. Persons and organizations working for and with children should also respect children's views with regard to participation in public events;

(d) Relevant — the issues on which children have the right to express their views must be of real relevance to their lives and enable them to draw on their knowledge, skills and abilities. In addition, space needs to be created to enable children to highlight and address the issues they themselves identify as relevant and important;

(e) Child-friendly — environments and working methods should be adapted to children's capacities. Adequate time and resources should be made available to ensure that children are adequately prepared and have the confidence and opportunity to contribute their views. Consideration needs to be given to the fact that children will need differing levels of support and forms of involvement according to their age and evolving capacities;

(f) Inclusive — participation must be inclusive, avoid existing patterns of discrimination, and encourage opportunities for marginalized children, including both girls and boys, to be involved (see also para. 88 above). Children are not a homogenous group and participation needs to provide for equality of opportunity for

all, without discrimination on any grounds. Programmes also need to ensure that they are culturally sensitive to children from all communities;

(g) Supported by training — adults need preparation, skills and support to facilitate children's participation effectively, to provide them, for example, with skills in listening, working jointly with children and engaging children effectively in accordance with their evolving capacities. Children themselves can be involved as trainers and facilitators on how to promote effective participation; they require capacity-building to strengthen their skills in, for example, effective participation awareness of their rights, and training in organizing meetings, raising funds, dealing with the media, public speaking and advocacy;

(h) Safe and sensitive to risk — in certain situations, expression of views may involve risks. Adults have a responsibility towards the children with whom they work and must take every precaution to minimize the risk to children of violence, exploitation or any other negative consequence of their participation. Action necessary to provide appropriate protection will include the development of a clear child-protection strategy which recognizes the particular risks faced by some groups of children, and the extra barriers they face in obtaining help. Children must be aware of their right to be protected from harm and know where to go for help if needed. Investment in working with families and communities is important in order to build understanding of the value and implications of participation, and to minimize the risks to which children may otherwise be exposed;

(i) Accountable — a commitment to follow-up and evaluation is essential. For example, in any research or consultative process, children must be informed as to how their views have been interpreted and used and, where necessary, provided with the opportunity to challenge and influence the analysis of the findings. Children are also entitled to be provided with clear feedback on how their participation has influenced any outcomes. Wherever appropriate, children should be given the opportunity to participate in follow-up processes or activities. Monitoring and evaluation of children's participation needs to be undertaken, where possible, with children themselves.

E. Conclusions

135. Investment in the realization of the child's right to be heard in all matters of concern to her or him and for her or his views to be given due consideration, is a clear and immediate legal obligation of States parties under the Convention. It is the right of every child without any discrimination. Achieving meaningful opportunities for the implementation of article 12 will necessitate dismantling the legal, political, economic, social and cultural barriers that currently impede children's opportunity to be heard and their access to participation in all matters affecting them. It requires a preparedness to challenge assumptions about children's capacities, and to encourage the development of environments in which children can build and demonstrate capacities. It also requires a commitment to resources and training.

136. Fulfilling these obligations will present a challenge for States parties. But it is an attainable goal if the strategies outlined in this general comment are systematically implemented and a culture of respect for children and their views is built.

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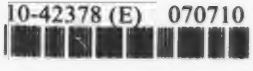

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